Peter Shannon & Co.

2025 TAX CONSIDERATIONS

CONTENTS

INDEX

Pages

INDIVIDUAL TAX CHANGES

Pages

BUSINESS TAX CHANGES

Pages

INDIVIDUAL TAX CHANGES

Extension and Enhancement of Reduced Income Tax Rate

Rate reductions, bracket changes. Under pre-Act law, for tax years 2018 through 2025, the Tax Cuts and Jobs Act (TCJA) temporarily modified the number of income tax brackets and reduced the income tax rates for individuals and trusts and estates. For individuals, the rates and brackets are: 10%, 12%, 22%, 24%, 32%, 35%, and 37%. For trusts and estates, the rates and brackets are: 10%, 24%, 35% and 37%.

After 2025, the pre-TCJA rates and brackets were scheduled to apply once again. For individuals, those would be rates and brackets of 10%, 15%, 25%, 28%, 33%, 35%, and 39.6%, and for trusts and estates, rates and brackets of 15%, 28%, 31%, 36% and 39.6%.

In addition, for 2018-2025, the TCJA expanded the income range for each tax rate bracket, and eliminated most of the "marriage penalty" in the individual tax rate structure (i.e., the result where married joint filers end up paying more tax than they would as single filers) by setting the joint filing tax brackets at twice the single tax bracket amounts, other than for the top tax bracket.

The TCJA didn't change the net capital gains and qualified dividends tax rates (of 0%, 15%, and 20%), but did modify the "breakpoints" at which those rates apply for 2018 through 2025.

This section makes the TCJA tax rate reductions and bracket changes, marriage penalty fix, and capital gains/qualified income breakpoints permanent. (Act Sec. 70101(a) amends Code Sec. 1(j))

Indexing for inflation. The TCJA also modified the rules for the inflation indexing of the income tax brackets to require that the brackets be adjusted annually for inflation each tax year using the percentage by which the Chained Consumer Price Index for all Urban Consumers ("chained CPI") for the prior year exceeds the chained CPI for 2017.

For tax years beginning after December 31, 2025, the section makes the base tax year for measuring the prior year chained CPI, 2016 (instead of 2017) for the 10% and 12% individual tax brackets, and the 10% trust and estate tax bracket. The base year remains 2017 for the 22%, 24%, 32%, 35%, and 37% individual tax rate brackets, and the 24%, 35% and 37% trust and estate tax brackets. (Act Sec. 70101(b) amends Code Sec. 1(j)(3)(B)(i))

The section is effective for tax years beginning after December 31, 2025. (Act Sec. 70101(c))

Extension and Enhancement of Increased Standard Deduction

The standard deduction is the sum of the basic standard deduction based on filing status and the additional standard deduction amounts for age 65 and older, and/or blindness. These amounts are indexed annually for inflation.

Under pre-Act law, for tax years 2018 through 2025, the TCJA temporarily increased the basic standard deduction amounts, but not the additional standard deduction.

For tax years 2018 through 2025, the basic standard deduction statutory amounts (before any inflation adjustment) are: $24,000 for joint filers and surviving spouses (computed as 200% of the single filers' amount); $18,000 for heads of household; and $12,000 for singles and marrieds filing separately.

The TCJA also modified the rules for the inflation indexing of the statutory base standard deduction amounts to require that they be adjusted annually for inflation each tax year using the percentage by which the Chained Consumer Price Index for all Urban Consumers ("chained CPI") for the prior year exceeds the chained CPI for 2017. (For 2025, the inflation-adjusted basic standard deduction amounts are: $30,000 for joint filers and surviving spouses; $22,500 for heads of household; and $15,000 for singles and marrieds filing separately.)

For tax years beginning after Dec. 31, 2025, the basic standard deduction amounts were scheduled to revert to the pre-TCJA statutory amounts. Those un-inflated-adjusted amounts were: for a joint return or surviving spouse, 200% of the dollar amount in effect for an unmarried individual; for a head of household, $4,400; and for a single or married-filing-separate return, $3,000.

This section increases the basic standard deduction statutory amounts for tax years beginning after 2025 (Act Sec. 70102(c)) to: $31,500 for joint filers and surviving spouses (computed as 200% of the single filers' amount); $23,625 for heads of household; and $15,750 for singles and marrieds filing separately. (Act Secs. 70102(a), 70102(b)(1) and 7010(b)(2) amend Code Sec. 63(c)(7))

The section also modifies the inflation adjustment for the basic standard deduction for tax years beginning after 2025, to make the base tax year for measuring the prior year chained CPI, 2024 (instead of 2017). (Act Secs. 70102(b)(1), 70102(b)(2), 70102(b)(3) and 70102(b)(4) amend Code Sec. 63(c)(7)(B)(ii))

The section is effective for tax years beginning after December 31, 2024. (Act Sec. 70102(c))

Extension and Enhancement of Increased Child Tax Credit; Credit for Other Dependents Extended

Child tax credit. Under pre-Act law, for tax years 2018 through 2025, the TCJA temporarily modified the child tax credit (CTC) to: increase the credit amount to $2,000 per qualifying child (without adjustment for inflation); increase the refundable portion of the credit (the "additional child tax credit") to $1,400, adjusted annually for inflation (using chained CPI computed using 2017 as the base year) ($1,700 for 2025); decrease the earned income threshold at which taxpayers may qualify to claim the credit, to $2,500 (without adjustment for inflation); and increase the modified adjusted gross income (MAGI) threshold amounts at which the credit begins to phase out to $400,000 for joint filers, and $200,000 for all other filers (without adjustment for inflation).

In addition, for 2018 through 2025, to claim the credit, the TCJA requires that the taxpayer include the qualifying child's Social Security Number (SSN), issued on or before the due date of the return, on the return.

For tax years after 2025, the CTC rules were scheduled to revert to pre-TCJA levels: a $1,000 per qualifying child CTC amount; a maximum $1,000 refundable credit amount; an earned income threshold of $3,000; and MAGI phase-out thresholds of $110,000 for joint filers, $75,000 for singles or heads of household, and $55,000 for marrieds filing separately--none of which are indexed for inflation.

And, post-2025, the qualifying child's name and taxpayer identification number, either an SSN or an Individual Taxpayer Identification Number (ITIN) issued on or before the due date of the return, would have to be included on the tax return.

This section, for tax years after 2025, makes all of the TCJA changes to the CTC permanent (Act Sec. 70104(a) amends Code Sec. 24(h)(1)), with the following modifications: (1) the nonrefundable CTC amount is increased to $2,200 per qualifying child (Act Sec. 70104(a)(2) amends Code Sec. 24(h)(2)), and is indexed for inflation for tax years after 2025, using chained CPI computed using 2024 as the base year (Act Sec. 70104(c) amends Code Sec. 24(i)); and (2) to claim the credit, the taxpayer is required to include on the tax return both the taxpayer's SSN (or for a joint return the SSN of at least one spouse) and the qualifying child's SSN. A qualifying SSN for these purposes is an SSN issued by the Social Security Administration to a U.S. citizen or national or pursuant to a provision of the Social Security Act relating to lawful admission for employment in the U. S. (Act Sec. 70104(b) amends Code Sec. 24(h)(7))

Credit for other dependents. Under current law, for tax years 2018 through 2025, the TCJA provides a temporary $500 nonrefundable credit (not adjusted for inflation) for dependents who don't qualify for the CTC--including children aged 17 or over, children with no SSN, and qualified dependents who aren't children (e.g., parents or siblings). The credit is available for dependents who are U.S. citizens, U.S. nationals, or U.S. resident aliens who have either an SSN or an ITIN. The credit for other dependents phases out at MAGI of $400,000 for married joint filers, and $200,000 for all other filers (without adjustment for inflation). For tax years after 2025, the $500 credit would have expired.

This section makes the credit for other dependents permanent. The credit continues not to be adjusted for inflation. (Act Sec. 70104(a) amends Code Sec. 24(h)(1))

Omission of correct SSN on a return. Omission of a correct SSN on a return under the Code Sec. 24 child and other dependent credit rules will be treated as a mathematical or clerical error that IRS can summarily assess. (Act Sec. 70104(e) amends Code Sec. 6213(g)(2)(I))

The section is effective for tax years beginning after December 31, 2024. (Act Sec. 70104(f))

Individual SALT Limitation

The TCJA capped the individual deduction for state and local taxes at $10,000 ($5,000 for marrieds filing separately). (Code Sec. 164(b)(6)) That cap was slated to sunset December 31, 2025.

The Act retroactively increases the individual SALT deduction cap from $10,000 to $40,000 for 2025. It further increases the cap to $40,400 in 2026, and by an additional 1% in 2027, 2028, and 2029.

The Act phases out the deduction for taxpayers with modified adjusted gross income (MAGI) greater than $500,000 in 2025. The phaseout threshold increases to $505,000 in 2026, and by an additional 1% after.

For higher-income taxpayers, in tax years before January 1, 2030, the cap is reduced by 30% of the excess of the taxpayer's MAGI over the threshold amount. The Act provides, however, that the deduction will not be reduced below $10,000.

Under the Act, the individual SALT deduction cap will revert to $10,000 beginning in 2030.

The provision is effective for tax years beginning after December 31, 2024. (Act Sec. 70120, amends Code Sec. 164(b)(6))

Estate and Gift Tax Basic Exclusion Amount

U.S. citizens and residents are allowed a unified credit of the applicable credit amount against any estate and gift tax imposed on transfers during life or at death. The applicable credit amount is the amount of tentative tax that would be imposed on transfers that value the applicable exclusion amount. For estates of decedents dying and gifts made after 2009, the applicable exclusion amount is the sum of the basic exclusion amount and, if applicable, the deceased spousal unused exclusion amount.

Under pre-Act law, the basic exclusion amount was $5 million under Code Sec 2010(c)(3)(A). For estates of decedents dying or gifts made after December 31, 2017 through December 31, 2025, the basic exclusion amount was increased to $10 million under Code Sec. 2010(c)(3)(C). (Code Sec. 2010(c)(3))

Effective 2026, the basic exclusion amount will increase to $15 million under Code Sec. 2010(c)(3)(A). The basic exclusion amount is adjusted for inflation after 2025 under Code Sec. 2010(c)(3)(B). Code Sec. 2010(c)(3)(C) is removed. (Act Sec. 70106(a))

This provision is effective for estates of decedents dying and gifts made after December 31, 2025. (Act Sec. 70106(b))

Pease Limitation Repealed

Pre-TCJA, taxpayers were subject to an overall limitation on itemized deductions, known as the "overall limitation on itemized deductions," the "3%/80% rule," or the "Pease limitation." (Code Sec. 68) Under the Pease limitation, if an individual's adjusted gross income (AGI) exceeded the inflation-adjusted applicable amount, then the amount of itemized deductions otherwise allowed for the tax year was reduced by the lesser of: (a) 3% of the excess of AGI over the applicable amount, or (b) 80% of the amount of itemized deductions otherwise allowable for the tax year.

Pre-Act, the Pease limitation was set to apply again in tax year 2026. Applicable thresholds were $250,000 for single filers, $275,000 for head of household filers, and $300,000 for married joint filers, all adjusted for inflation.

The Act permanently repeals the Pease limitation and instead generally applies a 2% reduction. Under the Act, itemized deductions will be reduced by 2/37 of the lesser of (a) the amount of the deductions or (b) the taxable income that exceeds the dollar amount at which the 37% rate bracket begins.

The Act excludes from the limitation the Code Sec. 199A deduction for qualified business income.

The provision applies to tax years beginning after December 31, 2025. (Act Sec. 70111, amends Code Sec. 68)

Individual Alternative Minimum Tax Exemption Amounts Permanently Increased, Phaseout Thresholds Modified

An individual's alternative minimum tax (AMT) liability is calculated by subtracting an exemption amount from the individual's alternative minimum taxable income (AMTI). The exemption amounts are phased out above certain income thresholds.

The TCJA increased individual AMT exemption amounts and exemption phaseout thresholds through December 31, 2025. (Code Sec. 55(d)(4)) The statutory AMT exemption dollar amounts for 2017 to 2025 are $70,300 ($109,400 for marrieds filing jointly), adjusted for inflation. The amount is reduced by 25% of the amount by which AMTI exceeds $1,000,000, adjusted for inflation (or 25% of the amount by which AMTI exceeds 50% of the married-filing-jointly phaseout threshold amount for individuals or marrieds filing separately).

Under the Act, individual AMT exemption amounts are increased permanently. In addition, the exemption phaseout threshold is set at $500,000 (or $1,000,000 for joint returns) in 2026, and indexed for inflation. The Act also increases the phase-out rate for higher-income taxpayers from 25% to 50%.

This provision applies to tax years beginning after December 31, 2025. (Act Sec. 70107, amends Code Sec. 55(d)(4))

Repayment Cap on Excess Advance PTC Payments is Eliminated

Taxpayers can elect to have advance payments of their estimated premium tax credit (PTC) made directly by IRS to the insurer. Taxpayers who choose this option must reconcile the advance payments with the actual credit (on Form 8962) when they file their returns. If the advance payments exceed the PTC to which the taxpayer is entitled for the tax year, the taxpayer generally owes the excess amount as an additional income tax.

Under pre-Act law, a "repayment cap" limited the additional tax to an applicable dollar amount, for taxpayers whose household income was less than 400% of the federal poverty line (FPL) for a family of the size involved.

For tax years beginning in 2025, the applicable dollar amounts are $750 if household income is less than 200% of the FPL, $1,950 if household income is at least 200% but less than 300% of the FPL, and $3,250 if household income is at least 300% but less than 400% of the FPL. For unmarried individuals other than surviving spouses or heads of household, the applicable dollar amounts are one-half of the above amounts.

The Act strikes Code Sec. 36B(f)(2)(B), which provides for the repayment cap. (Act Sec. 71305(a) amends Code Sec. 36B(f)(2))

Observation: As a result, all taxpayers will have to repay their excess advance PTC payments in their entirety.

This change is effective for tax years beginning after December 31, 2025. (Act Sec. 71305(c))

Termination of Deduction for Personal Exemptions Other Than Temporary Senior Deduction

Historical personal exemption deduction. Under Internal Revenue Code (IRC) 151, taxpayers were historically allowed to claim a personal exemption deduction for themselves, their spouse, and qualifying dependents. For tax years prior to 2018, this deduction reduced taxable income by a set amount per eligible individual.

Suspension of the deduction by the TCJA. The Tax Cuts and Jobs Act (TCJA) of 2017 suspended the personal exemption deduction for tax years 2018 through 2025. During this period, the deduction amount was set to zero for most taxpayers, but the underlying statutory language remained in place, allowing for the deduction to return after 2025 unless further legislative action was taken.

Permanent elimination and introduction of senior deduction. Section 70103 of the Act amends Code Sec. 151(d)(5) to permanently eliminate the personal exemption deduction for most taxpayers. However, this section also introduces a new, temporary deduction specifically for seniors.

Details of the senior deduction. Taxpayers aged 65 or older-and their spouses, if filing jointly-can claim a $6,000 deduction per qualified individual for tax years beginning before January 1, 2029 (i.e., tax years 2025-2028). This senior deduction is reduced by 6% (but not below zero) for the adjusted gross income that exceeds $75,000 (or $150,000 for joint filers).

Social Security Number requirement. To claim the deduction, the taxpayer must include the qualifying individual's Social Security number (SSN) on the return. The law amends Code Sec. 6213(g)(2) to treat the omission of a correct SSN for the senior deduction as a mathematical or clerical error, allowing the IRS to disallow the deduction without a formal audit.

Effective date. These changes apply to tax years beginning after December 31, 2024 (Act Section 70103 amends Code Sec. 151(d)(5)).

No Tax on Car Loan Interest

Under pre-Act law, individual taxpayers cannot deduct 'personal interest' such as interest on loans used to purchase cars for personal use.

The Act provides individuals (including non-itemizers) with a temporary tax deduction for interest paid on loans used to purchase a new personal-use passenger vehicle.

For tax years 2025-2028, individuals can deduct up to $10,000 of car loan interest per year, subject to a phase-out starting at $100,000 modified adjusted gross income (MAGI) for single filers ($200,000 for joint filers). To qualify for the deduction:

The debt must be incurred after December 31, 2024, for the purchase of a new personal use vehicle, secured by a first lien on the vehicle, and the vehicle's original use must begin with the taxpayer.

The vehicle must be a car, minivan, van, SUV, pickup truck, or motorcycle, with a gross vehicle weight rating under 14,000 pounds, and final assembly of the vehicle must occur in the United States, and

The taxpayer must report the vehicle identification number (VIN) on their tax return.

In addition, the provision requires lenders to file information returns reporting interest received on qualified personal auto loans with the IRS.

The provision applies to qualified indebtedness incurred after December 31, 2024. (Act Sec. 70203(e) amends Code Sec. 613(h) and Code Sec. 6050AA).

Enhancement of Child and Dependent Care Credit

Under pre-Act law, a taxpayer with one or more qualifying individuals, such as a child or other dependent, is eligible to claim a credit for employment-related expenses for child and dependent care. For this purpose, employment-related expenses are expenses for household services and expenses for the care of a qualifying individual.

This credit is calculated by multiplying the amount of qualifying expenses - a maximum of $3,000 if the taxpayer has one qualifying individual, and up to $6,000 if the taxpayer has two or more qualifying individuals - by the appropriate credit rate. The credit rate varies by the taxpayer's adjusted gross income, with a maximum credit rate of 35% that declines, as AGI increases, to 20% for taxpayers with AGI above $43,000.

The Act increases the maximum credit rate to 50%, reduced by one percentage point, but not below 35%, for each $2,000 or fraction thereof by which the taxpayer's AGI exceeds $15,000. For AGIs between $43,001 and $75,000 ($86,001 and $150,000, respectively, in the case of a joint return), the credit rate is 35%.

This credit rate is further phased down to 20% for AGI between $75,001 and $105,000 ($150,001 and $210,000, respectively, in the case of a joint return).

This provision is effective for tax years after December 31, 2025. (Act Sec. 70405 amends Code Sec. 21)

Credit of up to $1,700 for Contributions to Scholarship-Granting Organizations

Cash donations to scholarship-granting organizations may be deductible under Code Sec. 170.

The Act allows an individual taxpayer who is a U.S. citizen or resident an income tax credit for each tax year equal to the aggregate amount of qualified contributions of cash made by the taxpayer during the tax year to a scholarship-granting organization. (Code Sec. 25F(a), as added by Act Sec. 70411(a)(1)) A scholarship-granting organization must be (among other things) a Code Sec. 501(c)(3) public charity and must maintain separate accounts for qualified contributions. (Code Sec. 25F(c)(5), as added by Act Sec. 70411(a)) Qualified contributions must be used to fund scholarships to eligible students solely within the state in which the organization is listed as a qualifying scholarship-granting organization. (Code Sec. 25F(c)(3), as added by Act Sec. 70411(a)) The credit is only allowed for organizations in states that elect to participate in this program and that provide IRS with a list of scholarship-granting organizations within the state. (Code Sec. 25F(g), as added by Act Sec. 70411(a))

The credit can't exceed $1,700 per taxpayer per tax year, and is reduced by the amount allowed as a credit on any state tax return of the taxpayer for qualified contributions made by the taxpayer during the tax year. Code Sec. 25F(b), as added by Act Sec. 70411(a)) An amount taken as a credit under this provision can't be counted as a charitable contribution for purposes of the Code Sec. 170 deduction. (Code Sec. 25F(e), as added by Act Sec. 70411(a))

Credits in excess of the Code Sec. 26(a) limit on combined amount of nonrefundable personal credits can be carried forward for five years. (Code Sec. 25F(f), as added by Act Sec. 70411(a))

An eligible student for these purposes is an individual who is a member of a household with an income which, for the calendar year before the date of the application for a scholarship, is not greater than 300% of the area median gross income (as such term is used in Code Sec. 42), and is eligible to enroll in a public elementary or secondary school. (Code Sec. 25F(c)(2), as added by Act Sec. 70411(a))

An individual's gross income won't include any amounts provided to that individual or any dependent of that individual under a scholarship for qualified elementary or secondary education expenses of an eligible student which is provided by a scholarship-granting organization. (Code Sec. 139K, as added by Act Sec. 70411(b))

The credit is available in tax years ending after December 31, 2026. (Act Sec. 70411(c)(1)) The exclusion for scholarship amounts described above will apply to amounts received after December 31, 2026, in tax years ending after that date. (Act Sec. 70411(c)(2))

Extension of Rules for Treatment of Certain Disaster-Related Personal Casualty Losses

The Act extends the application of Section 304(b) of the Taxpayer Certainty and Disaster Tax Relief Act of 2020 by substituting the date of enactment for "the date of enactment of this Act" in each instance it appears.

The extended rules allow victims of qualified natural disasters to continue to claim personal casualty losses without needing to itemize their deductions. The standard deduction is increased by the amount of the net disaster loss, defined as the excess of qualified disaster-related personal casualty losses over personal casualty gains. Further, the 2020 Act raised the per-casualty floor from $100 to $500.

To qualify, the losses must arise in a qualified disaster area on or after the first day of the incident period of the qualified disaster. (Act Sec. 70438. Amends Code Sec. 165(h))

Social Security Number Requirement for American Opportunity and Lifetime Learning Credits

Under pre-Act law, Code Sec. 25A allows a taxpayer to qualify for the American Opportunity Tax Credit (AOTC) and the Lifelong Learning credit for the education of an individual only if the taxpayer includes on their tax return the taxpayer identification number ("TIN") of that individual. (Code Sec. 25A(g)(1)(A))

A taxpayer is allowed the AOTC only if the taxpayer includes the employer identification number ("EIN") of any institution to which qualified tuition and related expenses were paid. (Code Sec. 25A(g)(1)(B)(iii))

Under the Act, to qualify for the AOTC, a taxpayer must include on the taxpayer's tax return their (or their spouse's) social security number ("SSN") or, for an individual other than the taxpayer or the taxpayer's spouse, that individual's name and social security number. (Act Sec. 70606(a)(1)(A))

The present-law EIN requirement is clarified to provide that a taxpayer must include on their tax return for that year, the EIN of any institution to which the taxpayer paid qualified tuition and related expenses taken into account in computing the credit. (Act Sec. 70606(a)(1)(B))

A taxpayer's omission of a required correct SSN or EIN is treated as a mathematical or clerical error for purposes of Code Sec. 6213. (Act Sec. 70606(b))

This provision is effective for tax years beginning after Dec. 31, 2025. (Act Sec. 70606(c))

Some Lawfully Present Aliens Made Ineligible for PTC

Under Code Sec. 36B, an applicable taxpayer who enrolls in a qualified health plan (QHP) through an Affordable Insurance Exchange is allowed a refundable premium tax credit (PTC). The PTC allowed to a taxpayer is based, in part, on the monthly premiums for one or more QHPs covering the taxpayer, the taxpayer's spouse, or the taxpayer's dependent(s) that were enrolled in through an Exchange.

Premiums attributable to individuals who aren't lawfully present in the U.S. aren't taken into account in computing the PTC. However, under current law, premiums attributable to individuals who are lawfully present in the U.S. are taken into account.

The Act amends this rule by introducing a new category of "eligible aliens." Under the Act, premiums attributable to individuals who are lawfully present in the U.S. but aren't eligible aliens aren't taken into account in computing the PTC. (Act Sec. 71301(a), amending Code Sec. 36B(e)(1))

The Act defines an "eligible alien" as an alien who is lawfully present in the U.S. and who, for the entire enrollment period for which the PTC is claimed, is reasonably expected to be:

- an alien lawfully admitted for permanent residence under the Immigration and Nationality Act (8 U.S.C. 110120 et seq.), i.e., a green card holder;

- an alien who has been granted the status of Cuban and Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980 (Public Law 96-422), i.e., an individual granted parole as a Cuban-Haitian entrant; or

- an individual who lawfully resides in the U.S. in accordance with a Compact of Free Association (COFA) referred to in section 402(b)(2)(G) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(b)(2)(G)), i.e., an individual from Federated States of Micronesia, Republic of the Marshall Islands, and Republic of Palau who lives and works in the U.S. under a COFA. (Act Sec. 71301(b), amending Code Sec. 36B(e)(2))

Observation. Under the Act, the PTC won't be available for premiums paid for individuals who are lawfully present in the U.S. but don't fall into one of the above three categories. These ineligible aliens include Deferred Action for Childhood Arrivals (DACA) recipients, temporary protected status (TPS) holders, and nonimmigrant visa holders.

The provision is effective for tax years beginning after Dec. 31, 2026. (Act Sec. 71301(e))

Exchange Must Verify Applicant's Eligibility to Enroll in QHP and Receive Advance PTC Payments-Post-2027 Tax Years

The premium tax credit (PTC) allowed to a taxpayer enrolled in an Exchange-purchased qualified health plan (QHP) is based, in part, on the premiums paid for "coverage months" during the tax year.

Under pre-Act law, a month is a "coverage month" for an individual if these three requirements are met:

(1) as of the first day of the month, the individual is enrolled in a QHP through an Exchange;

(2) the premium for coverage under the plan for the month is paid by the taxpayer or through advance PTC payments; and

(3) the individual isn't eligible for "minimum essential coverage," other than coverage in the individual market, for the full calendar month.

The Act imposes a new verification requirement on Exchanges. It provides that the term "coverage month" won't include, for any individual covered by a QHP enrolled in through an Exchange, any month beginning before the Exchange verifies the individual's eligibility (i) to enroll in the plan through the Exchange and (ii) for advance PTC payments.

Observation. If a month isn't a coverage month, the taxpayer won't be eligible for the PTC for that month.

The verification will be made using applicable enrollment information that the applicant will provide or verify. "Applicable enrollment information" includes affirmation of at least the following information, to the extent relevant in determining eligibility for plan enrollment and advance PTC payments:

- household income and family size.
- whether the individual is an eligible alien (i.e., a lawfully present alien who is eligible for the PTC, see Act Sec. 71301).
- any health coverage status or eligibility for coverage.
- place of residence.
- other information that the Treasury Secretary, in consultation with the Secretary of Health and Human Services (HHS), determines to be necessary for the verification.

The Act allows for verification of past months. Thus, a month that begins before the required verification will be treated as a coverage month if the Exchange verifies for that month, using applicable enrollment information provided or verified by the applicant, the individual's eligibility to have enrolled and for any advance payment.

An individual who fails to meet the verification requirements for a month will not, solely for that reason, be treated as ineligible to enroll in a QHP through an Exchange for that month.

The Treasury Secretary may waive application of the verification requirement in the case of an individual who enrolls in a QHP through an Exchange for one or more months of the tax year during a special enrollment period (SEP) provided by the Exchange based on a change in the individual's family size.

An Exchange may use any available data and any reliable third-party sources in collecting information for verification by the applicant.

In addition, the term "coverage month" will not include, for any individual covered by a QHP enrolled in through an Exchange, any month for which the Exchange does not meet, with respect to the individual, the requirements of 45 CFR 155.305(f)(4)(iii), as published in the Federal Register on June 25, 2025 (90 Fed. Reg. 27074), applied as though it applied to all plan years after 2025. (Act Sec. 71303(a), amending Code Sec. 36B(c))

Observation. The cited reg contains a failure to file and reconcile (FTR) process under which Exchanges must determine a tax filer ineligible for advance PTC payments if: (1) HHS notifies the Exchange that the tax filer (or their spouse if the tax filer is a married couple) received advance payments for a prior year for which tax data will be utilized for verification of income, and (2) the tax filer or tax filer's spouse didn't comply with the requirement to file a federal income tax return and reconcile advance PTC payments for that year. While 45 CFR 155.305(f)(4)(iii) by its terms applies only for plan year 2026, the Act provision treats it as applying for all post-2025 plan years.

Pre-enrollment verification process required. The Act provides that the term "qualified health plan" will not include any plan enrolled in through an Exchange, unless the Exchange provides a pre-enrollment verification process through which any applicant may, beginning not later than August 1, verify with the Exchange the applicant's household income and eligibility for enrollment in the plan for plan years beginning in the following year. (Act Sec. 71303(b), amending Code Sec. 36B(c)(3)(A))

These changes are effective for tax years beginning after Dec. 31, 2027. (Act Sec. 71303(c))

Limitation on Deduction for Qualified Residence Interest Extended

Home acquisition debt incurred by a taxpayer in acquiring a qualified residence (i.e., a principal residence and one other residence) generated qualified residence interest.

Pre-Act law. The TCJA temporarily lowered the deduction for qualified residence interest to $750,000 ($375,000 for marrieds filing separate returns). (Code Sec. 163(h)(3)(F)) The limitation was set to increase to $1 million, effective January 1, 2026.

The Act permanently lowers the deduction for qualified residence interest to $750,000 in home mortgage acquisition debt. It also permanently treats certain mortgage insurance premiums on acquisition indebtedness as qualified residence interest.

This provision applies to tax years beginning after December 31, 2025. (Act Sec. 70108, amends Code Sec. 163(h)(3)(F))

Miscellaneous Itemized Deductions Terminated, Educator Expenses Excepted

Under the TCJA, individual miscellaneous itemized deductions were not available for tax years 2018 - 2025. (Code Sec. 67(g)) The limitation does not apply to itemized deductions listed under Code Sec. 67(b).

Pre-Act, miscellaneous itemized deductions would have been available for tax years beginning in 2026.

The Act permanently suspends miscellaneous itemized deductions.

The Act also adds a deduction for unreimbursed employee expenses for eligible educators to the list of itemized deductions under Code Sec. 67(b). Eligible educators include K - 12 teachers, instructors, counselors, interscholastic sports administrators and coaches, principals, and aides in a school for at least 900 hours during a school year. The deduction is available for equipment and supplementary materials used by eligible educators as part of an instructional activity.

This provision applies to tax years beginning after December 31, 2025. (Act Sec. 70110, amends Code Sec. 67(g))

New Tax-Deferred Investment Accounts for Children

The Act creates a new tax-deferred investment account for children, called a "Trump account." Specifically, these accounts are eligible to receive contributions from parents, relatives, employers, and other taxable entities as well as non-profit and government entities. To be eligible for an account, the child must be a U.S. citizen and have a Social Security number (SSN). Trump account funds must be invested in a diversified fund that tracks an established index of U.S. equities and grow tax deferred.

Contributions: Contributions to a Trump account are limited to $5,000 annually of after-tax dollars. The $5,000 contribution limit is indexed for inflation.

Contributions provided to Trump accounts from tax exempt entities, such as private foundations, are not subject to the $5,000 annual limit. These contributions from unrelated third parties must be provided to all children within a qualified group (i.e. all children in a state, specific school district or educational institution, etc.). No additional contributions of any kind shall be made to Trump accounts after the beneficiary has attained age 18.

Distributions: Subject to some exceptions, Trump account holders may not take distributions until age 18.

Pilot Program: Under a newborn pilot program, for U.S. citizens born between January 1, 2025, and December 31, 2028, the federal government will contribute $1,000 per child into every eligible account.

If the IRS determines that an eligible individual does not have an account opened for them by the first tax return where the child is claimed as a qualifying child, the IRS will establish an account on the child's behalf. Parents have the option to opt out of the account.

This section is effective for tax years beginning after December 31, 2025. (Act Sec. 70204(e). Adding Code Sec. 530A, Code Sec. 128, Code Sec. 139J, and Code Sec. 6434)

Enhancement of Adoption Credit

Under pre-Act law, Code Sec. 23 allowed taxpayers to claim a nonrefundable income tax credit for qualified adoption expenses incurred, up to a maximum of $17,280 per child.

Effective 2025, the adoption credit is enhanced to include a refundable portion of up to $5,000. (Act Sec. 70402(a)) This refundable amount will be adjusted for inflation annually, with the adjustments beginning in 2025 using a base year of 2024 for cost-of-living calculations. (Act Sec. 70402(b)) The provision clarifies that the refundable portion of the adoption credit will not be eligible for carryforward to subsequent years. (Act Sec 70402(c))

This provision is effective for tax years beginning after Dec. 31, 2024. (Act Sec. 70402(d))

Additional Expenses Treated as Qualified Higher Education Expenses for Purposes of 529 Accounts

The Act provides that tax-exempt distributions from 529 savings plans - tax-advantaged accounts that fund education expenses - apply to more expenses attributable to enrollment or attendance at an elementary or secondary public, private, or religious school.

The expanded list of eligible education expenses includes tuition; curriculum and curricular materials; books or other instructional materials; online educational materials; tuition for tutoring or educational classes outside of the home; fees for nationally standardized tests, advanced placement exams, and college admission exams; fees for dual enrollment at higher education institutions; and educational therapies for students with disabilities provided by a licensed or accredited professional.

The Act increases the annual limit for 529 account distributions from $10,000 to $20,000. This limitation applies only to K-12 expenses.

The effective date for the expanded expenses applies to distributions made after the date of enactment, and the doubled limitation applies to tax years beginning after December 31, 2025. (Act Sec. 70413. Amending Code Sec. 529(c)(7).)

Qualified Higher Education Expenses for Purposes of 529 Accounts

The Act allows 529 savings plan tax-exempt distributions to apply to "qualified postsecondary credentialing expenses."

Under new Code Sec. 529(f), such expenses include tuition, fees, books, supplies, and equipment required for enrollment or attendance at a recognized postsecondary credential program. This also includes fees for testing or continuing education required to obtain or maintain a recognized postsecondary credential.

A recognized postsecondary credential program is one that: 1) is on a state list under the Workforce Innovation and Opportunity Act; 2) is listed in the public directory of the Web Enabled Approval Management System of the Veterans Benefits Administration; 3) prepares individuals for an exam required for a credential; or 4) is identified as reputable for obtaining a recognized postsecondary credential.

A recognized postsecondary credential means: any postsecondary employment credential program 1) accredited by the Institute for Credentialing Excellence, the National Commission on Certifying Agencies, or the American National Standards Institute; or 2) included in the Credentialing Opportunities On-Line directory maintained by the Department of Defense or by any branch of the Armed Forces.

Alternatively, credentials may be deemed industry recognized by the Secretary of Labor.

Recognized postsecondary credentials also include certificates of completion of an apprenticeship registered and certified with the Secretary of Labor; occupational or professional licenses issued or recognized at the state or federal government level; and credentials as defined in Section 3(52) of the Workforce Innovation and Opportunity Act.

This section applies to distributions made after the date of enactment. (Act Sec. 70414. Amends Code Sec. 529)

Individuals' Charitable Deductions: Floor of 0.5 % of AGI is Imposed, and 60%-of-AGI Ceiling for Certain Cash Gifts is Made Permanent

Under pre-Act law, no floor applies for individuals' charitable contribution deduction. (Code Sec. 170)

The Act provides for a floor of 0.5% of the taxpayer's contribution base (which is, generally, adjusted gross income, AGI) on the charitable deductions of individuals. Thus, an otherwise deductible charitable contribution must be reduced by 0.5% of an individual's contribution base for the tax year. The Act provides rules for the order in which the taxpayer's contributions are taken into account, and for carryforwards of contributions disallowed by the 0.5% floor. (Act Sec. 70425(a))

Under pre-Act law, individuals can't deduct more than a specified percentage of their "contribution base"-generally AGI-as a charitable deduction in any year. For contributions to "50% charities," an individual may deduct up to 50% of the contribution base-the "50% ceiling." (Code Sec. 170(b)(1)(A)) And a 60%, limit ("60% ceiling") applies to cash-only contributions by individuals to 50% charities. (Code Sec. 170(b)(1)(G))

The rule providing for a 60% ceiling for cash gifts to 50% charities was slated to expire after 2025. (Code Sec. 170(b)(1)(G)(i))

The Act makes permanent the 60% ceiling for cash gifts to 50% charities, and provides that a contribution of cash to a 50% charity is deductible to the extent that the total amount of contributions of cash to 50% charities doesn't exceed the excess of: (a) 60% of the taxpayer's contribution base for the tax year, over (b) the total amount of contributions to 50% charities for the tax year. (Act Sec. 70425(b))

Both the floor provision and the 60%-limit provision are effective for tax years beginning after Dec. 31, 2025. (Act Sec. 70425(c))

PTC Disallowed to Aliens Below Poverty Line Who Are Ineligible for Medicaid

To be eligible for the premium tax credit (PTC), a taxpayer must generally have household income of at least 100% of the federal poverty line for a family of the size involved (the "applicable poverty line").

However, under current law, this income threshold doesn't apply to an alien who is lawfully present in the U.S. if the taxpayer isn't eligible for Medicaid under Title XIX of the Social Security Act because of the taxpayer's status as an alien.

The Act eliminates this special income threshold rule for lawfully present aliens. (Act Sec. 71302(a), amending Code Sec. 36B(c)(1))

Observation: As a result of this change, lawfully present aliens with income below the applicable poverty line will no longer be eligible for the PTC, even if the alien can't receive Medicaid coverage due to alien status.

This change is effective for tax years beginning after Dec. 31, 2025. (Act Sec. 71302(b))

PTC Disallowed for Certain Coverage Enrolled in During Special Enrollment Period

Under Code Sec. 36B, applicable taxpayers who enroll in a qualified health plan (QHP) through an Affordable Insurance Exchange are allowed a refundable premium tax credit (PTC).

Under pre-Act law, a QHP for purposes of the PTC is a "qualified health plan" as defined by Sec. 1301(a) of the Patient Protection and Affordable Care Act (PPACA) (PL 111-148, 3/23/2010), except that it doesn't include a catastrophic plan described in PPACA Sec. 1301(e).

The Act adds to this definition that a QHP doesn't include any plan enrolled in during a special enrollment period (SEP) provided for by an Exchange:

- on the basis of the relationship of the individual's expected household income to a percentage of the poverty line (or another amount) that the Secretary of Health and Human Services prescribes for purposes of the SEP, and
- not in connection with the occurrence of an event or change in circumstances that the Secretary of Health and Human Services specifies for those purposes. (Act Sec. 71304(a), amending Code Sec. 36B(c)(3)(A))

Observation. The federal marketplace (HealthCare.gov) and many state marketplaces currently provide a year-round SEP for taxpayers whose household income doesn't exceed 150% of the federal poverty line. This low-income SEP is available even if the taxpayer hasn't experienced a life event or change of circumstances, such as marriage, divorce, birth, etc. The Act eliminates this type of SEP by making such coverage ineligible for the PTC.

This change is effective for plan years beginning after Dec. 31, 2025. (Act Sec. 71304(b))

Extension and Modification of Limitation on Casualty Loss Deduction

The TCJA limited itemized deductions for personal casualty losses for tax years 2018 - 2025 to losses attributable to a federally declared disaster.

Pre-Act, that limitation was set to expire and an itemized deduction for uncompensated personal casualty losses would be available for losses resulting from fire, storm, shipwreck, or other casualty, or from theft after December 31, 2025. (Code Sec. 165(h))

The Act permanently limits the deduction to personal casualty losses resulting from federally declared disasters and certain state-declared disasters.

The provision applies to tax years beginning after December 31, 2025. (Act Sec. 70109, amends Code Sec. 165(h)(5))

Permanent Non-Itemizers' Charitable Deduction for Individuals

Under pre-Act law, no provision currently allows individuals to deduct charitable contributions without electing to itemize deductions. (Code Sec. 170)

The Act provides that non-itemizers may claim a charitable deduction, not in excess of $1,000 ($2,000 for a joint return). (Act Sec. 70424(a))

To qualify for the non-itemizers' charitable deduction, contributions must be in cash, must be made to a public charity, and must meet certain other requirements set forth in Code Sec. 170(p). (Code Sec. 170(p))

The non-itemizers' charitable deduction is a below-the-line deduction, deducted from adjusted gross income in arriving at taxable income. (Code Sec. 63(b)(4))

The provision applies for tax years beginning after Dec. 31, 2025. (Act Sec. 70424(b))

Excise Tax on Certain Remittance Transfers

Under pre-Act law, there is no tax on remittance transfers for a U.S. sender of a payment to a recipient in a non-U.S. country.

The Act establishes a 1% excise tax on any remittance transfer, to be paid by the sender, to be collected by the remittance transfer provider and to be remitted quarterly to the Secretary of the Treasury. (Act Sec. 70604 (a); (b)(2))

A secondary liability is imposed on the remittance transfer provider to the extent that the tax is not collected from the sender. (Act Sec. 70604 (b)(3))

An exception from the imposition of the excise tax is available if the remittance transfer is withdrawn from a financial institution governed by Title 31, Chapter 53 or funded with a U.S.-issued debit or credit card. (Act Sec. 70604 (d))

Where appropriate, anti-conduit rules apply to recharacterize remittance transfers to prevent the avoidance of tax. (Act Sec. 70604 (f))

This provision is effective for transfers made after Dec. 31, 2025. (Act Sec. 70604(c))

Limitation on Wagering Losses

Pre-Act, losses from wagering transactions were deductible only to the extent of gains from such transactions. (Code Sec. 165(d)) For the 2018 - 2025 tax years, losses from wagering transactions included otherwise allowable deductions incurred in carrying on any wagering transactions.

The Act instead provides that for losses from wagering transactions, the deduction amount is 90% of the amount of losses in the tax year, to the extent of the gains from such transactions during the tax year.

The provision applies to tax years beginning after December 31, 2025. (Act Sec. 70114, amends Code Sec. 165)

Extension and Modification of Limitation on Deduction and Exclusion for Moving Expenses

Historical moving expense deduction. The federal moving expense deduction was first introduced in 1964 under the Revenue Act of 1964, codified in Internal Revenue Code (IRC) §217. It allowed taxpayers to deduct reasonable expenses incurred when relocating for a new job, provided certain distance and time tests were met.

Suspension of the deduction by the TCJA. The Tax Cuts and Jobs Act (TCJA) of 2017 suspended the deduction for most taxpayers from 2018 through 2025, preserving it only for active-duty military members moving due to a permanent change of station. This suspension was implemented through IRC§217(k) and the related exclusion for employer-paid moving expense reimbursements under IRC §132(g).

Permanent disallowance for most taxpayers. Section 70113 of the Act makes permanent the suspension of the moving expense deduction (IRC §217) and exclusion (IRC§132(g)) for most taxpayers, which continues the policy originally enacted under the TCJA.

Limited exceptions for military and intelligence community. Under the TCJA, only active-duty members of the U.S. Armed Forces moving due to a military order and permanent change of station were allowed to claim the deduction or exclusion (IRC §217(g), IRC §132(g)). Section 70113 expands this exception to include employees and appointees of the U.S. intelligence community who relocate due to a change in assignment.

Effective date. These changes apply to tax years beginning after December 31, 2025, meaning the expanded eligibility for intelligence community members begins with the 2026 tax year (Act Section 70113, amending IRC §217(k) and §132(g)).

ABLE Account Contributions, Rollovers

Pre-Act, additional contributions to an Achieving a Better Life Experience (ABLE) account for employed individuals with disabilities were available through 2025. (Code Sec. 529A(b)(2)(B)) Additional contributions were limited to the lesser of the applicable federal poverty level for a one-person household in the prior year, or the beneficiary's compensation for the year.

Also pre-Act, beneficiaries who made qualified contributions to their ABLE accounts were eligible for the Saver's Credit. (Code Sec. 25B(d)(1)) In addition, tax-free rollovers from Section 529 qualified tuition programs to qualified ABLE programs were permitted. (Code Sec. 529(c)(3)(C)(i)(III)) Both provisions were slated to sunset December 31, 2025.

The Act permanently provides for additional contributions to ABLE accounts for employed individuals with disabilities. It also adjusts the base limit amount by one year for inflation. (Act Sec. 70115, amending Code Sec. 529A(b)(2)(B))

The Act also permanently allows beneficiaries who make qualified contributions to their ABLE account to qualify for the Saver's Credit. It provides an additional calculation formula for qualified retirement contributions, elective deferrals, and voluntary employee contributions made in tax years before 2027. The Act also increases the credit amount to $2,100 beginning in the 2027 tax year. (Act Sec. 70116, amending Code Sec. 25B(d)(1))

In addition, the Act permanently allows tax-free rollovers of amounts in Section 529 qualified tuition programs to qualified ABLE programs. (Act Sec. 70117, amending Code Sec. 529(c)(3)(C)(i)(III))

The provisions, except for the Saver's Credit amount increase, apply for tax years beginning after December 31, 2025. The increase in the Saver's Credit amount is effective for tax years beginning after December 31, 2026.

Extension and Enhancement of Deduction for Qualified Business Income

Under the TCJA, specified non-corporate taxpayers could deduct 20% of qualified business income (QBI) from a partnership, S corporation, or sole proprietorship. The 20% deduction also applied to certain real estate investment trust dividends and publicly traded partnership income.

The Act sets the minimum deduction for active QBI at $400. It also provides that an applicable taxpayer must have a minimum of $1,000 QBI to claim the deduction. An "active qualified trade or business" means any qualified trade or business of the taxpayer in which the taxpayer "materially participates," as defined in Code Sec. 469(h).

The Act increases the phase-in threshold for single filers from $50,000 to $75,000 and the joint filer threshold from $100,000 to $150,000. Inflation adjustments apply to the new minimum amounts for tax years beginning after 2026.

This section takes effect for tax years beginning after December 31, 2025. (Act Sec. 70105, amends Code Sec. 199A)

No Tax on Tips

History on taxation of tips. Historically, cash tips received by employees have been considered taxable income under the Internal Revenue Code. Employees are required to report tips to their employers, who then withhold income and payroll taxes. Employers also pay their share of FICA taxes on reported tips.

There has never been a general deduction for tip income; all tips were fully taxable, and the only related tax benefit was the FICA tip credit for employers in the food and beverage industry under IRC?45B. The Tax Cuts and Jobs Act (TCJA) of 2017 did not alter the taxability of tips for employees.

Creation of temporary deduction for tips. Section 70201 of the Act creates a new, temporary deduction for individuals who receive qualified cash tips in occupations where tipping was customary before January 1, 2025. This is codified as new IRC§225.

Deduction amount and phaseout. The deduction is up to $25,000 per year per taxpayer. The deduction phases out by $100 for every $1,000 of modified adjusted gross income (MAGI) above $150,000 (or $300,000 for joint filers).

Qualifying criteria for tips. Tips must be properly reported on IRS-approved forms. Tips must be voluntary, not negotiated, and not received in specified service trades or businesses (as defined in IRC§199A(d)(2)). For individuals receiving tips through a business they operate (other than as employees), the deduction is allowed only if gross income from the business (including tips) exceeds business-related deductions.

Additional requirements. Married taxpayers must file jointly to claim the deduction. A valid Social Security Number (SSN) must be provided. An omission of a valid SSN is treated as a mathematical or clerical error under IRC§6213(g)(2).

Non-itemizer eligibility. The deduction is available to non-itemizers, meaning it can be claimed in addition to the standard deduction (IRC§63).

Exclusion from qualified business income. Any amount deducted under new IRC§225 is excluded from the definition of qualified business income for purposes of the IRC§199A deduction, preventing double tax benefits.

Expansion of FICA tip credit. The FICA tip credit under IRC§45B is expanded to include beauty service businesses (barbering, hair care, nail care, esthetics, spa treatments) where tipping is customary, aligning them with food and beverage establishments.

Enhanced reporting requirements. Businesses, third-party payers, and platforms must separately report designated cash tips and the recipient's occupation on Forms W-2, 1099, and 1099-K (IRC §6041, §6041A, §6050W, §6051, etc.). Employers must report total employee tips and occupations on wage statements.

IRS guidance and withholding adjustments. The IRS is required to publish a list of occupations that customarily receive tips not later than 90 days after the date of the enactment of this Act. The list must cover occupations that customarily and regularly received tips on or before December 31, 2024. IRS must adjust withholding procedures to reflect the new deduction starting in 2026 (IRC §3402). For tips received before January 1, 2026, reporting entities may use reasonable methods to approximate designated tip amounts during the transition period.

Effective date. The new tip deduction and related provisions apply to taxable years beginning after December 31, 2024. The deduction is temporary and will expire for taxable years beginning after December 31, 2028 (Act Section 70201, adding new IRC §225).

No Tax on Overtime

History of overtime taxation. Historically, overtime pay-defined as compensation for hours worked beyond 40 in a workweek, as required by the Fair Labor Standards Act (FLSA)-has always been fully taxable under the Internal Revenue Code. Employees pay regular income and payroll taxes on all wages, including overtime.

There has never been a special deduction or exclusion for overtime pay for individual taxpayers. Employers are required to report all compensation, including overtime, on IRS Form W-2, and employees must include all such compensation in their gross income. The Tax Cuts and Jobs Act (TCJA) of 2017 did not alter the taxability of tips for employees.

Creation of a temporary deduction for overtime pay. Section 7202 of the Act creates a new, temporary deduction for individuals who receive "qualified overtime compensation." This is codified as new Internal Revenue Code (IRC) §226.

Deduction amount and phaseout. Taxpayers may deduct up to $12,500 per year in qualified overtime compensation ($25,000 for joint filers). The deduction phases out by $100 for every $1,000 of modified adjusted gross income (MAGI) above $150,000 (single filers) or $300,000 (joint filers).

Definition and qualifying criteria for overtime. "Qualified overtime compensation" is defined as overtime pay required under section 7 of the FLSA that is in excess of the regular rate. The deduction does not apply to any amounts already deducted as qualified tips under new IRC §224.

Overtime must be properly reported on IRS forms such as W-2s (for employees) or 1099s (for non-employees). The deduction is only available for overtime compensation, not for regular wages or other forms of compensation.

Additional requirements. To claim the deduction, taxpayers must include a valid Social Security Number (SSN) on their return. Married individuals must file jointly to be eligible for the deduction. The omission of a required SSN is treated as a mathematical or clerical error under IRC §6213(g)(2), allowing the IRS to correct the return without a formal audit. The IRS is authorized to issue regulations to prevent abuse or misclassification of income.

Non-itemizer eligibility. The deduction is available to non-itemizers, meaning it can be claimed in addition to the standard deduction (IRC §63).

Reporting requirements. Employers must report the total amount of qualified overtime compensation on employees' W-2 forms. Businesses must also report this information for non-employees on applicable 1099 forms. For overtime compensation earned before January 1, 2026, reporting entities may use reasonable methods to estimate and report qualifying amounts during the transition period.

Withholding and IRS guidance. The IRS must update withholding procedures beginning in 2026 to reflect the new deduction (IRC §3402). The IRS is authorized to issue regulations or guidance to prevent abuse of the deduction.

Effective date. The new overtime deduction and related provisions apply to taxable years beginning after December 31, 2024. The deduction is temporary and will expire for taxable years beginning after December 31, 2028 (Act Section 70202, adding new IRC §226).

BUSINESS TAX CHANGES

Bonus Depreciation Made Permanent at 100%

Code Sec. 168(k) provides additional first-year ("bonus") depreciation for qualified property. Before the Act, the applicable rate for bonus depreciation was being phased down to zero over multiple years. The Act permanently sets bonus depreciation at 100% (now informally stylized as 100% expensing).

Other than adjusting certain date criteria, the Act did not alter the types of property eligible for the Code Sec. 168(k) deduction. A limited transitional election is provided to apply the pre-Act phase-down rates instead of 100%.

This provision is effective for property acquired after Jan. 19, 2025. (Act Sec. 70301. Amending Code Secs. 168 and 460)

Allocation of Deductions to Foreign Source Net CFC Tested Income (Formerly Known as GILTI) for Foreign Tax Credit Purposes

The foreign tax credit is generally limited to a taxpayer's U.S. tax liability on its foreign source taxable income. This limitation is applied separately to specific categories of income, among them the global intangible low tax income (GILTI) category.

The Act, which renames GILTI to net CFC tested income (Act Sec. 70323), limits the deductions that may be allocated to income in the net CFC tested income category to (i) the deduction for net CFC tested income itself as well as for taxes imposed on that income and (ii) any other deductions directly allocable to net CFC tested income. Further, no amount of interest expense or R&E expense may be allocated to this category. Deductions which would have been allocated to the net CFC tested income category but for this provision must instead be allocated to U.S. source taxable income for purposes of the foreign tax credit limitation. (Act Sec. 70311(a))

This provision applies to tax years beginning after December 31, 2025. (Act Sec. 70311(c))

One Percent Floor for Deductions of Corporate Charitable Contributions

A corporation can deduct charitable contributions. The deduction can't exceed 10% of the corporation's taxable income (as computed without regard to the charitable contribution). Contributions in excess of that limit in any year can be carried forward and deducted over the next five years. (Code Sec. 170(b)(2))

The Act provides that any otherwise allowable charitable contribution by a corporate taxpayer for any tax year (other than certain qualified conservation contributions) will be allowed only to the extent that the aggregate of such contributions exceeds 1% of the taxpayer's taxable income for the tax year. (Code Sec. 170(b)(2)(A), as amended by Act Sec. 70426(a))

Charitable contributions disallowed either for exceeding the 10% maximum or failing to reach the 1% threshold can be carried forward for five years. (Code Sec. 170(d)(2), as amended by Act Sec. 70426(b))

Observation: The new 1% floor on corporate charitable contributions applies in addition to the 10%-of-taxable-income limitation discussed above.

This section is effective for tax years beginning after December 31, 2025. (Act Sec. 70426(d))

Increased 179 Expensing Limits - $2,500,000/$4,000,000

Code Sec. 179 allows immediate expensing deductions for certain business property. There is an annual statutory limit of $1,000,000, which is adjusted for inflation (pre-Act limit was $1,250,000 for 2025 property). That limit is phased down dollar-for-dollar once property placed in service during the year exceeds a statutory threshold of $2,500,000, which is adjusted for inflation (pre-Act threshold was $3,130,000 for 2025 property).

The Act increases the statutory expensing limit to $2,500,000 and increases the phase-down threshold to $4,000,000. Both statutory amounts will continue to be subject to future inflation adjustments.

This provision is effective for property placed in service in tax years beginning after Dec. 31, 2024. (Act Sec. 70306. Amending Code Sec. 179)

100% Depreciation Election for Real Property Used for Producing Tangible Personal Property

The Act adds new Code Sec. 168(n). This provision allows a taxpayer to elect a 100% depreciation deduction for qualified production property (QPP) in the year it is placed in service. Adjusted basis is reduced accordingly. To be eligible, generally, QPP construction must start between January 20, 2025, and December 31, 2029; and the property must be placed in service in the U.S. (or a U.S. possession) before January 1, 2031.

QPP is nonresidential real property used as an integral part of a qualified production activity (QPA). QPP does not include property used for a variety of functions unrelated to QPAs, such as offices for sales or research activities. Additionally, QPP does not include Alternative Depreciation System (ADS) property, or property the taxpayer leases to another person.

QPP is subject to an original use requirement, but an exception is allowed if the property (i) was not previously used by the taxpayer, (ii) was not previously used in a QPA by another person, and (iii) was not acquired from a related party or certain non-recognition transactions.

A QPA is the manufacturing, production (agricultural and chemical only), or refining of a qualified product. A qualified product is tangible personal property other than food or beverages prepared in the same building as a retail outlet that sells those products.

QPP is subject to a 10-year recapture period. If QPP ceases to be used for a QPA, then Code Sec. 1245 is applied as if there had been a disposition of the property.

There are coordination rules for the alternative minimum tax and for QPP that might also be eligible for other forms of additional first-year depreciation.

This provision is effective for property placed in service after the date of enactment of the Act. (Act Sec. 70307. Amending Code Secs. 168 and 1245)

Coordination of Business Interest Limitation with Interest Capitalization Provisions

Code Sec. 163(j) limits the amount of interest a business can deduct, with certain exceptions. Any business interest not allowed as a deduction for any tax year may be carried forward indefinitely.

Under current IRS regulations, Code Sec. 163(j) applies after the application of provisions that subject interest expense to disallowance, deferral, capitalization or other limitations.

The Code Sec. 163(j) limitation is calculated prior to the application of any interest capitalization provision.

After applying the limitation, any allowable interest is allocated first to amounts that would be capitalized and the remainder, if any, to amounts that would be deducted.

Any business interest carried forward is not subject to the interest capitalization provisions.

This provision applies to tax years beginning after December 31, 2025. (Act Sec. 70341, amends Code Sec. 163(j))

Definition of Adjusted Taxable Income for Business Interest Limitation

A taxpayer's adjusted taxable income (ATI) is the taxable income of the taxpayer computed without regard to non-business income, gain, deduction or loss, any business interest income, any net operating loss, any 199A deduction, or depreciation, amortization or depletion or other adjustments required by the Treasury Secretary.

The Act adds a new item to the list of things that are added back to taxable income when calculating "adjusted taxable income" for the business interest deduction limit.

The new item includes the amounts included in gross income under sections 951(a), 951A(a), and 78 (and the portion of the deductions allowed under sections 245A(a) (by reason of section 964(e)(4)) and 250(a)(1)(B) by reason of such inclusions).

This change applies to tax years beginning after December 31, 2025. (Act Sec. 70342, amends Code Sec. 163(j)(8))

Expansion of Qualified Small Business Stock Gain Exclusion

Under pre-Act law, Code Sec. 1202 allowed noncorporate taxpayers that hold qualified small business stock (QSBS) for more than 5 years to potentially exclude all or part of the gain realized on the sale or exchange of that QSBS from gross income. There were a number of limitations on the exclusion, including a limitation that the aggregate amount of gain from dispositions of stock issued by the corporation that can be taken into account under the exclusion can't exceed the greater of (i) $10 million ($5 million for married taxpayers filing separate returns) minus the aggregate amount of eligible gain (gain on the sale or exchange of QSBS held for more than five years) excluded under Code Sec. 1202 for earlier tax years and attributable to dispositions of stock issued by the corporation and (ii) ten times the taxpayer's aggregate adjusted bases in QSBS issued by the corporation (generally determined on the date the stock was originally issued) and disposed of by the taxpayer in the tax year. In addition, the aggregate gross assets of the issuing corporation (cash and the adjusted basis of its assets) generally must not have exceeded $50 million at any point before and immediately after the stock issuance (including amounts received in the issuance) at all times on or after the date of the enactment of the Revenue Reconciliation Act of 1993.

Under the Act, gain on the applicable percentage (50% for stock held for 3 years, 75% for stock held for 4 years, 100% for stock held for 5 years (Code Sec. 1202(a)(5) as amended by Act Sec. 70431(a)(2)) is eliminated for QSBS acquired after the applicable date (July 4, 2025. (Code Sec. 1202(a)(1)(B) as amended by Act Sec. 70431(a)(2)); (Code Sec. 1202(a)(6)(A) as amended by Act Sec. 70431(a)(3)) Stock that would otherwise be treated as having been acquired before, on, or after the applicable date, will be treated as acquired on the first day on which the stock was held by the taxpayer under the Code Sec. 1223 holding period rules. (Code Sec. 1202(a)(6)(B) as amended by Act Sec. 70431(a)(3))

As under pre-Act law, the eliminated gain will not be treated as an alternative minimum tax preference. (Code Sec. 57(a)(7) as amended by Act Sec. 70431(a)(4)(A))

The limitation on the aggregate amount of gain from dispositions of stock issued by the corporation that can be taken into account under the exclusion is amended so that it is the applicable dollar limit. (Code Sec. 1202(b)(1)(A) as amended by Act Sec. 70431(b)(1) This limit is (i) for stock acquired by the taxpayer before the applicable date, $10 million minus the aggregate amount of eligible gain taken into account by the taxpayer for earlier tax years and attributable to dispositions of stock issued by the corporation and acquired by the taxpayer before, on, or after the applicable date and (ii) for stock acquired by the taxpayer after the applicable date, $15 million minus the aggregate amount of eligible gain taken into account by the taxpayer for earlier tax years and attributable to dispositions of stock issued by such corporation and acquired by the taxpayer before, on, or after the applicable date, plus the aggregate amount of eligible gain taken into account by the taxpayer for the tax year and attributable to dispositions of stock issued by such corporation and acquired by the taxpayer on or before the applicable date. (Code Sec. 1202(b)(4) as amended by Act Sec. 70431(b)(2))

The $15 million limit will be increased for inflation by multiplying the amount by the Code Sec. 1(f)(3) cost-of-living adjustment for the calendar year in which the tax year begins, determined by substituting "calendar year 2025" for "calendar year 2016" in Code Sec. 1(f)(3)(A)(ii). If any increase under this rule is not a multiple of $10,000, the increase is rounded to the nearest multiple of $10,000. If for any tax year, the eligible gain attributable to dispositions of stock issued by a corporation and acquired by the taxpayer after the applicable date exceeds the applicable dollar limit, then notwithstanding the above inflation increase for any later tax year, the applicable dollar limit for the subsequent tax year will be zero. (Code Sec. 1202(b)(5) as amended by Act Sec. 70431(b)(2))

As under pre-Act law, the $10 million limit is reduced to $5 million for married taxpayers filing separate returns and the limitation for stock acquired by the taxpayer after the applicable date is similarly reduced by one-half of the dollar amount otherwise in effect. (Code Sec. 1202(b)(3)(A) as amended by Act Sec. 70431(b)(3))

The Act also increases the $50 million aggregate gross asset limit to $75 million and provides for an inflation adjustment to the $75 million limit similar to the above adjustment to the $15 million limit (with rounding off to the nearest $10,000). (Code Sec. 1202(d) as amended by Act Sec. 70431(c))

The provision eliminating gain on the applicable percentage described above is effective for tax years beginning after July 4, 2025, although the elimination of the tax preference for the exclusion for alternative minimum tax purposes is effective as if included in Section 2011 of the Creating Small Business Jobs Act of 2010. (Act Sec. 70431(a)(6))

The increase in the limitation on the aggregate amount of gain is effective for tax years beginning after July 4, 2025. (Act Sec. 70431(b)(4))

The increase in the gross asset limitation is effective for stock issued after July 4, 2025. (Act Sec. 70431(b)(4))

Enhancement of Advanced Manufacturing Investment Credit

Under current law, eligible taxpayers are allowed a 25% advanced manufacturing investment credit (also known as the semiconductor credit or the CHIPS credit) on qualified investments in an advanced manufacturing facility built before January 1, 2027. An advanced manufacturing facility is a facility that has a primary purpose of manufacturing semiconductors or semiconductor manufacturing equipment.

This section increases the credit to 35% for property placed in service after December 31, 2025. (Act Sec. 70308. Amends Code Sec. 48D)

Increased Information Reporting Threshold for Certain Payees

Under pre-Act law, Code Sec. 6041(a) requires all persons engaged in a trade or business to file an information return (typically, Form 1099-MISC or 1099-NEC) for payments totaling $600 or more made during a calendar year for specified types of income (including rent, salaries, wages, and other fixed or determinable income). Code Sec. 6041A imposes a similar reporting requirement for payments totaling $600 or more made as remuneration for services to persons other than employees. Backup withholding under Code Sec. 3406(b)(6) applies when payments meet or exceed the $600 threshold and the payee fails to provide a correct taxpayer identification number or otherwise fails to comply with applicable reporting requirements.

The Act increases the general reporting threshold and the reporting threshold for remuneration to non-employees from $600 to $2,000. (Act Secs. 70433(a) and 70433(c). Amend Code Secs. 6041(a) and 6041A(a)(2), respectively)

Beginning in 2027, the general reporting threshold is adjusted annually for inflation using the cost-of-living adjustment formula in Code Sec. 1(f)(3), with calendar year 2025 as the base year. (Act Sec. 70433(b). Adds new Code Sec. 6041(h)) The Act aligns the reporting threshold under Code Sec. 6041A with this inflation-adjusted threshold. (Act Sec. 70433(c). Amends Code Sec. 6041A(a)(2))

The Act also revises the backup withholding rules to reflect the inflation-adjusted threshold established under new Code Sec. 6041(h). (Act Sec. 70433(d). Amends Code Sec. 3406(b)(6))

This provision is effective for payments made after December 31, 2025. (Act Sec. 70433(f). Amends Code Sec. 6041 and Code Sec. 6041A)

Form 1099-K De Minimis Exception for Third-Party Networks Reverts to $20,000 plus 200 Transactions

Code Sec. 6050W requires third-party network transactions to be reported on Form 1099-K, and reportable transactions are potentially subject to backup withholding under Code Sec. 3406. There is a de minimis exception which excludes aggregate transactions in a year below a certain threshold from the 1099-K reporting requirements. This exception does not extend to payment card transactions.

The American Rescue Plan Act of 2021 (ARPA) changed the statutory de minimis threshold to $600. That threshold was scheduled to start applying to 2022 transactions. However, the IRS allowed delayed implementation. Before the Act, under IRS guidance, reporting entities could follow a $2,500 de minimis exception for 2025 transactions.

The Act reverts the de minimis exception to the pre-ARPA threshold, which means that only aggregate transactions in a year for a payee exceeding both $20,000 and 200 transactions are required to be reported.

The Act also clarifies that both components of the de minimis exception - dollar amount and transaction count - are considered for backup withholding.

The threshold reversion provision is effective as if it had been included in the ARPA. The backup withholding clarification is effective for calendar years beginning after Dec. 31, 2024. (Act Sec. 70432. Amending Code Secs. 6050W and 3406)

Treatment of Capital Gains From Sale of Certain Farmland Property

The Act allows sellers of qualified farmland property to elect to pay capital gains tax resulting from the sale in four equal annual installments.

Qualified farmland property means real U.S. property used as a farm or leased to a qualified farmer. To qualify, the property must be used substantially for farming purposes for the 10 years preceding the sale. The property must also be subject to prohibitions on non-farm use for at least 10 years after the sale.

A qualified farmer is an individual actively engaged in farming, as defined in the Food Security Act of 1986.

The first installment payment is due with the tax return for the year in which the sale occurs. The following three payments are also due with the returns for the subsequent tax years. If a payment is missed, the entire remainder of the capital gains tax balance is then due immediately.

If the taxpayer is an individual who dies before paying all four installments, the unpaid installments are due with the last year's return. If the taxpayer is a C corporation, trust, or estate - and there is a liquidation, sale of substantially all assets, or cessation of business - then the unpaid installments are due immediately.

In the event of a tax deficiency assessed as a result of the gain from the farmland sale, the deficiency is prorated across the remaining installments. However, this does not apply if the deficiency is due to negligence or fraud.

This section applies to sales or exchanges in tax years beginning after the date of enactment. (Act Sec. 70437. Redesignates Code Sec. 1062)

Payments from Partnerships to Partners for Property or Services

Under pre-Act law, Code Sec. 702(a)(2) provided for the recharacterization under IRS regs of both disguised sales of property to partnerships and direct or indirect allocations and distributions to a partner who provides services or transfers property to a partnership, where the performance of the services (or the transfer of property) and the allocation and distribution, when viewed together, are properly characterized as a transaction between the partnership and the partner acting other than in his capacity as a partner. In those cases, the allocation and distribution are treated as a transaction between the partnership and an outsider. IRS has issued regs regarding disguised sales of property to partnerships, but has not issued any regs regarding allocations and distributions to partners who provide services or transfer property to partnerships.

The Act eliminates the language that the recharacterization be under IRS regs. Thus, IRS may recharacterize transactions without issuing any regs. (Code Sec. 702(a)(2) as amended by Act Sec. 70602(a)) The change is not intended to create any inference with respect to the proper treatment of payments from a partnership to a partner for services performed, or property transferred, on or before July 4, 2025. (Act Sec. 70602(c))

This provision is effective for services performed or property transferred after July 4, 2025. (Act Sec. 70602(b))

Section 162(m) Extended to Controlled Groups

Under pre-Act law, Code Sec. 162(m) limits the amounts that publicly held corporations may deduct for compensation of certain top executives to $1 million per year. The limitation applies to "covered employees," which typically includes the CEO, CFO, and the three highest-compensated executive officers (excluding the CEO and CFO). Pre-Act law also provides that for tax years beginning after Dec. 31, 2026, the definition of covered employees is currently set to expand to include the next five highest-compensated employees, regardless of their officer status. Thus, the number of covered employees for most publicly held companies will increase from 5 to 10.

Under pre-Act law, Code Sec. 162(m) applies to any "covered employee" within the Public Company's controlled group as defined under Code Sec. 1504 for the consolidated return rules. Under the Act, which uses the term "specified covered employee" instead of "covered employee," determining compensation that is subject to Code Sec. 162(m) is expanded to include all members of a publicly-held corporation's controlled group and affiliated service group under Code Sec. 414(b), (c), (m), or (o) (which is a broader group than under the pre-Act aggregation rule).

Compensation paid to a "specified covered employee" by any member of the controlled group is aggregated. To the extent the aggregated compensation exceeds $1 million, the deduction limitation is allocated pro rata to each controlled group member based on the ratio of compensation paid by that member to aggregate compensation paid by all members.

Observation: The Act changes the Code Sec. 162(m) rules so that individuals employed by an unincorporated trade or business under common control with the publicly held corporation could be specified covered employees. This could include partnerships or affiliated service groups, such as certain service organizations connected through ownership or management. In addition, certain entities in controlled group structures (e.g., an Up-C or REIT) may have to analyze the potential application of Code Sec. 162(m).

This provision applies to tax years beginning after December 31, 2025. (Act Sec. 70603(b))

Exceptions from Limitations on Deduction of Business Meals

Taxpayers may deduct food and beverage expenses associated with operating the taxpayer's trade or business, such as meals consumed by employees on work travel. However, with certain limited exceptions, the deduction is limited to 50% of the otherwise deductible amount through the end of 2025, and eliminated entirely for amounts paid or incurred after December 31, 2025. (Code Sec. 274)

The Act provides an additional exception from the limitations on the deduction of business meals for the expenses of food or beverages provided (a) on a fishing vessel, fish processing vessel, or fish tender vessel (as defined in 46 U.S. Code Sec. 2101), or (b) at a facility for the processing of fish for commercial use or consumption which is located in the United States north of 50 degrees north latitude and is not located in a metropolitan statistical area (within the meaning of Code Sec. 153(k)(2)(B)). (Code Sec. 274(n)(2)(C)(v), as added by Act Sec. 70305(b))

The Act also clarifies that the limitations on the deduction of business meals don't apply to expenses for goods or services (including the use of facilities) sold by a taxpayer in a bona fide transaction for an adequate and full consideration in money or money's worth. (Code Sec. 274(o), as amended by Act Sec. 70305(a))

This section applies to amounts paid or incurred after December 31, 2025. (Act Sec. 70305(c))

Overall Dollar Limit on the Advanced Energy Project Credit No Longer Increased by Amounts Allocated to Revoked Project Certifications

Allocations of the Code Sec. 48C advanced energy project credit are subject to a cumulative (not annual) $10 billion limit. (Code Sec. 48C(e)(2))

Under pre-Act law, when a project certification was revoked, the amount that had been allocated to that project was added back to the unused amount of the $10 billion limit. (Code Sec. 48C(e)(3)(C))

The Act discontinues this add-back. (Act Sec. 70515(a))

This provision is effective as of the date of enactment of The Act. (Act Sec. 70515 (b))

Limit on Excess Business Losses is Made Permanent; Inflation Adjustment is Modified; Inapplicability of Farm Loss Limits is Made Permanent

For taxpayers other than corporations, any "excess business loss" of the taxpayer for the tax year is disallowed. Briefly, excess business loss is the excess of trade or business deductions for the tax year, over the sum of: gross income or gain for the tax year attributable to those trades or businesses, plus (a) $250,000 (as adjusted for inflation-i.e., for 2025, $313,000)-or (b) $500,000 for a joint return (as adjusted for inflation-i.e., for 2025, $626,000). (Code Sec. 461(l)(1); Code Sec. 461(l)(3))

Under pre-Act law, the inflation adjustment to the $250,000 amount (above) was calculated by applying the cost-of-living adjustment determined under Code Sec. 1(f)(3), determined by substituting "2017" for the "2016" in Code Sec 1(f)(3)(A)(ii). (Code Sec. 461(l)(3)(C))

For taxpayers other than corporations, the farm loss limitation rules of Code Sec. 461(j) do not apply. (Code Sec. 461(l)(1)(A))

Observation: During the period when the farm loss limitation rules of Code Sec. 461(j) do not apply, farm losses are subject to the broader excess business loss limitation of Code Sec. 461(l) (above).

Under pre-Act law, the excess business loss provision was slated to expire for tax years beginning after 2028. (Code Sec. 461(l)(1)(B)) The inapplicability of the Code Sec. 461(j) excess farm loss limit was also slated to expire for tax years beginning after 2028.

The Act makes the limit on excess business losses permanent. It also makes permanent the inapplicability of the Code Sec. 461(j) excess farm loss limit. (Act Sec. 70601(a))

The Act changes the inflation adjustment calculation for the $250,000 amount (above); "2024" (and not "2017") is substituted for the "2016" in Code Sec 1(f)(3)(A)(ii). (Act Sec. 70601(b))

The change making permanent the excess business loss limit/inapplicability of Code Sec. 461(j) is effective for tax years beginning after Dec. 31, 2026. (Act Sec. 70601(c)(1)) The change to the calculation of the inflation adjustment is effective for tax years beginning after December 31, 2025. (Act Sec. 70601(c)(2); Code Sec. 461(l)(3)(C))

Enforcement Provisions with Respect to COVID-Related Employee Retention Credits

The Employee Retention Credit (ERC), also known as the Employee Retention Tax Credit (ERTC), was established through Sec. 2301(a) of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act; PL 116-136). The ERC was a refundable payroll tax credit. For the 2020 tax year, the ERC was claimed by eligible employers who paid qualified wages after March 12, 2020, and before January 1, 2021, if they experienced a full or partial suspension of their operations or a significant decline in gross receipts ("eligible employers"). The credit was equal to 50% of qualified wages paid, including qualified health plan expenses. The maximum credit per employee was $5,000.

The ERC was later extended to qualified wages paid after December 31, 2020, and before July 1, 2021, and the ERC rate was increased from 50% to 70% of qualified wages. The required percentage of significant decline in gross receipts was reduced for eligibility, and the limit per-employee on per-employee creditable wages was increased from $10,000 for the year to $10,000 for each quarter, among other items. It was further expanded and modified to include wages paid after June 30, 2021, and before January 1, 2022.

On November 15, 2021, the ERC was terminated for most employers beginning with the fourth quarter of 2021. However, recovery startup businesses continued to be eligible for the ERC through December 31, 2021.

Caution claiming the expired ERC. Generally, for 2020 tax periods, the deadline was April 15, 2024. For 2021 tax periods, the deadline was April 15, 2025. While a business may be eligible to claim the expired ERC via an amended payroll tax return, the IRS received numerous ERC claims from ineligible businesses, and has repeatedly warned about predatory ERC marketers aggressively advertising their services to "help" businesses claim the already expired ERC without verifying whether the business is in fact eligible for the ERC.

On September 14, 2023, the IRS paused the processing of new ERC claims due to the increase of improper claims submitted through the use of ERC mills. On August 8, 2024, the IRS announced it had processed ERC claims filed between September 14, 2023, and January 31, 2024.

The Act provides several provisions covering the enforcement by the IRS of fraudulent ERC claims.

First, it imposes penalties on any COVID-ERTC promoter who aids or advises on COVID-ERTC documents and who fails to meet due diligence requirements similar to those under Code Sec. 6695(g) when determining eligibility for, or the amount of, any credit or advance payment under Code Sec. 3134. The promoter will face a $1,000 penalty per failure. The penalty applies only to documents used in connection with tax returns or claims for refund, and will be treated as assessable under Code Sec. 6695(g) and assessed under Sec. 6201.

The Act defines a COVID-ERTC Promoter as any person that provides aid, assistance, or advice regarding COVID-ERTC documents and:

Their fee is based on the amount of the credit/refund, and COVID-ERTC work is more than 20% of their gross receipts in the year or prior year, or

COVID-ERTC work is more than 50% of gross receipts, or

Both COVID-ERTC work is more than 20% of gross receipts and the aggregate of gross receipts exceeds $500,000.

Certified professional employer organizations (CPEOs) are not considered a COVID-ERTC Promoter. All persons treated as a single employer under Code Sec. 52 or section 414 are treated as a single employer.

The Act goes on to define a COVID-ERTC document as any return, affidavit, claim, or document related to credit or advance payment of a credit under Code Sec. 3134, including any document related to eligibility for, or the calculation or determination of any amount directly related to, any such credit or advance payment.

The Act limits the availability of new ERTC credits or refunds after the enactment date unless the claim was filed before February 1, 2024. It further extends the limitation on the time period for the assessment of any amount related to ERTC credits, for 6 years from the latest of:

- The date the original return which includes the calendar quarter with respect to which the credit is determined was filed,
- The date the return is treated as filed, or
- The date a claim for credit or refund is made.

The period to claim deductions for improperly claimed ERTC wages is also extended to match the assessment period.

Finally, the Act expands the penalty for erroneous claim for refund or credit to cover employment tax, not just income tax.

The provisions apply generally after the date of enactment of the Act. (Act Sec. 70605. Amends Code Sec. 3134 and 6676)

Extension and Enhancement of Paid Family and Medical Leave Credit

Code Sec. 45S provides a general business credit equal to the applicable percentage (12.5% to 25% depending on the rate of payment) of the amount of wages paid to qualifying employees during any period in which the employees are on family and medical leave, up to a maximum of 12 weeks of leave for any employee for the tax year. An employer can't deduct wages for which a credit is taken. A qualifying employee must have been employed by the employer for one year or more. Any leave paid by a state or local government or required by state or local law is not taken into account in determining the amount of paid family and medical leave provided by the employer. Under pre-Act law, the credit won't be available for wages paid in tax years beginning after 2025.

The Act makes the credit permanent. (Act Sec. 70304(a)(5), repealing Code Sec. 45S(i))

The Act allows an employer to instead choose a credit for the applicable percentage of premiums paid or incurred by an employer for an insurance policy that provides paid family and medical leave (in other words, an employer must choose between a credit based on premiums paid or wages paid). (Act Sec. 70304(a)(1)(A), amending Code Sec. 45S(a)(1)(B)) The credit for insurance premiums is available whether or not leave is actually taken. (Act Sec. 70304(a)(1)(B), adding Code Sec. 45S(a)(3))

The Act clarifies that an eligible employee for purposes of the credit includes any employee employed not less than 20 hours per week. (Act Sec. 70304(a)(4)(C), adding Code Sec. 45S(d)(3)) At the election of the employer, an eligible employee can be one who has been employed by the employer for not less than six months, rather than one year. (Act Sec. 70304(a)(4)(A), amending Code Sec. 45S(d)(1))

The Act clarifies that employer-provided paid leave required by state or local government counts toward paid leave provided by the employer for purposes of determining eligibility for the credit, although it is not taken into account in determining the amount of credit. (Act Sec. 70304(a)(3), amending Code Sec. 45S(c)(4))

The Act amends the aggregation rule to provide that all persons treated as a single employer under Code Sec. 414(a) or Code Sec. 414(b) are generally treated as a single employer for purposes of the family and medical leave credit. (Act Sec. 70304(a)(3), amending Code Sec. 45S(c)(3))

This provision applies to tax years beginning after December 31, 2025. (Act Sec. 70304(c))

Enhancement of Employer-Provided Child Care Credit

Under pre-Act law, Code Sec. 45F allowed employers to claim the employer-provided child care credit for certain costs of providing child care assistance to employees. Subject to a $150,000-per-tax-year limit, the credit was available for (1) 25 percent of "qualified child care expenditures" and (2) 10 percent of the costs of certain other types of child care assistance.

Effective 2026, the Act enhances the employer-provided child-care credit by increasing the credit percentage for "qualified child care expenditures" from 25 percent to 40 percent for regular businesses and 50 percent for eligible small businesses. (Act Sec. 70401(a)) The maximum annual credit amounts increase to $500,000 for regular businesses and $600,000 for eligible small businesses, with both amounts subject to annual inflation adjustments beginning in 2027. (Act Sec. 70401(b))

The provision defines eligible small businesses as those meeting a modified gross receipts test based on a 5-year period rather than the standard 3-year period (Act Sec. 70401(c)) and expands credit eligibility to include third-party intermediary arrangements (Act Sec. 70401(d)) and jointly owned or operated child care facilities. (Act Sec. 70401(e))

This provision is effective for amounts paid or incurred after Dec. 31, 2025. (Act Sec. 70401(g))

Employee Exclusion for Employer Payments of Student Loans is Made Permanent; Inflation Adjustment Added

"Educational assistance" provided under an employer's qualified educational assistance program, up to an annual maximum of $5,250, is excluded from the employee's income. (Code Sec. 127(a))

Under pre-Act law, "educational assistance" includes "eligible student loan repayments" made after Mar. 27, 2020. These are payments by the employer, whether paid to the employee or to a lender, of principal or interest on any qualified higher education loan as defined in Code Sec. 221(d)(1) for the education of the employee (but not of a spouse or dependent). (Code Sec. 127(c)(1)(B))

Under pre-Act law, the employee exclusion for eligible student loan repayments made by an employer was slated to expire for payments made after Dec. 31, 2025. (Code Sec. 127(c)(1)(B))

Pre-Act law did not provide for an inflation adjustment to the above $5,250-per-year limit. (Code Sec. 127)

The Act makes permanent the employee exclusion for qualifying employer payments of student loans under Code Sec. 127(c)(1)(B). (Act Sec. 70412(a)) And the Act provides for an inflation adjustment to the $5,250 amount, for tax years beginning after 2026. (Act Sec. 70412(b))

Both provisions apply for payments made after Dec. 31, 2025. (Act Sec. 70412(c))

Dependent Care Assistance Program's Tax-free Contribution Limit Increased

Under pre-Act law, the maximum annual exclusion for dependent care assistance is $5,000 ($2,500 for a married individual filing separately). Code Sec. 129 provides that gross income of an employee does not include amounts paid or incurred by an employer for dependent care assistance provided to an employee if the amounts are furnished under a dependent care assistance program.

This section increases the exclusion for dependent care assistance up to $7,500 annually ($3,750 for a married individual filing separately).

This section is effective for tax years beginning after December 31, 2025. (Act Sec. 70404. Amends Code Sec. 129)

Exclusion for Qualified Bicycle Commuting Reimbursement Permanently Eliminated

Under pre-Act law, the $20 per month qualified bicycle commuting reimbursement exclusion received by an employee from an employer (which is suspended for tax years 2018 through 2025) is scheduled to return for tax years beginning after December 31, 2025.

This section permanently eliminates the qualified bicycle commuting reimbursement exclusion. For qualified transportation fringe benefits other than the qualified bicycle commuting reimbursement, the provision changes the base year (from 1998 to 1997) for purposes of calculating the inflation adjustment.

This section is effective for tax years beginning after December 31, 2025. (Act Sec. 70112. Amends Code Sec. 132(f))

Termination of Cost Recovery for Energy Property

Under pre-Act law, Code Sec. 168(e)(3)(B)(vi) classifies certain energy property as 5-year property eligible for accelerated depreciation under the Modified Accelerated Cost Recovery System (MACRS). Energy property, as defined in Code Sec. 48(a)(3)(A), includes solar panels, wind turbines, geothermal systems, fuel cells, microturbines, combined heat and power systems, and certain energy storage and hydrogen technologies. To qualify, the property must (a) be constructed or first used by the taxpayer, (b) be eligible for depreciation or amortization, and (c) meet IRS and Department of Energy standards.

Effective 2025, the Act removes this 5-year classification, thereby eliminating accelerated cost recovery under MACRS for newly constructed energy property. (Act Sec. 70509(a). Amends Code Sec. 168(e)(3)(B)(vi))

Observation. Eliminating 5-year MACRS classification for energy property reduces the upfront tax benefits of clean energy investments.

This provision applies to property for which construction begins after December 31, 2024. (Act Sec. 70509(b))

Termination for Wind Energy After 2027 and Other Changes to the Advanced Manufacturing Production Credit

The Code Sec. 45X advanced manufacturing production credit applies to the production and sale of eligible components in a trade or business where the sale is to an unrelated person. (Code Sec. 45X(a))

Three of the five categories of eligible components are wind energy components, applicable critical minerals, and qualifying battery components. (Code Sec. 45X(c)(1)(A)) The last category includes the subcategory battery modules. (Code Sec. 45X(c)(5)(A)(iii), (Code Sec. 45X(c)(5)(B)(iii))

Credit rates can vary among the categories and subcategories of eligible components. (Code Sec. 45X(b)(1))

Under pre-Act law sales to unrelated people included sales of components integrated, incorporated, or assembled into another eligible component sold to an unrelated person (the subcomponent rule). (Code Sec. 45X(d)(4))

Under pre-Act law, the credit, generally, was phased out for eligible components as follows: 75% of the otherwise-allowable credit for eligible components sold in calendar year 2030, 50% for sales in calendar year 2031, 25% for sales in 2032, and 0% for sales in 2033 and thereafter. But the phaseout didn't apply to applicable critical minerals. (Code Sec. 45X(b)(3))

The Act narrows the subcomponent rule by requiring that the component that includes the subcomponent be produced within the same manufacturing facility as the subcomponent. The Act also provides that the rule applies to a component only if at least 65% of the direct material costs paid or incurred by the taxpayer to produce the including component are attributable to subcomponents mined, produced, or manufactured in the U.S. (Act Sec. 70514 (a))

The Act terminates the credit for wind energy components produced and sold after December 31, 2027. (Act Sec. 70514 (b)(3))

The Act adds metallurgical coal (suitable for production of steel without regard to where the steel is produced) to the applicable critical mineral category of eligible components at a credit rate of 2.5% of production costs (Act Sec. 70514 (e)), but only for the metallurgical coal produced before January 1, 2030. (Act Sec. 70514 (b)(3))

The Act newly subjects pre-Act applicable critical minerals to phaseout on the following schedule: 75% of the otherwise-allowable credit for applicable critical minerals produced in calendar year 2031, 50% for production in calendar year 2032, 25% for production in 2033, and 0% for production in 2034 and thereafter. (Act Sec. 70514 (b)(3))

The Act adds to the requirements for being a battery module that, in addition to any other required equipment, the module be comprised of all other essential equipment needed for battery functionality, such as current collector assemblies and voltage sense harnesses, or any other essential energy collection equipment. (Act Sec. 70514 (d))

The Act provides that eligible components don't include any property that includes "material assistance from a prohibited foreign entity," as that term is defined in Code Sec. 7701(a)(52), as added to the Code by Act Sec. 70512(c), except that the treatment described in Code Sec. 7701(a)(52)(D)(iv) of existing contracts is modified as applied to the credit. (Act Sec. 70514 (c)(1))

Additionally, The Act prohibits the credit if the taxpayer is a specified foreign entity as defined in Code Sec. 7701(a)(51)(B) or a foreign influenced entity as defined (with modification) in Code Sec. 7701(a)(51)(D), both as added to the Code by Act Sec. 70512(c). The credit is also prohibited for a tax year to which Code Sec. 7701(a)(51)(D)(i)(II), concerning giving effective control of certain activities to a specified foreign entity, is determined to apply if the determination relates to an eligible component. (Act Sec. 70514 (c)(2))

The above provisions apply to tax years beginning after the date of enactment of The Act except that the rules for subcomponents apply to components sold during tax years beginning after December 31, 2026. (Act Sec. 70514 (f))

Sunsetting Energy Efficient Home Improvement Credit by December 31, 2025

Under pre-Act law, taxpayers were eligible for a credit equal to 30% of expenditures on energy efficient home improvements. (Code Sec. 25C(a)) Energy efficient home improvement expenditures include qualified energy efficiency improvements, residential energy property expenditures, and home energy audits. (Code Sec. 25C(a)) The credit was limited to $1,200. (Code Sec. 25C(b)(1)) The credit was only available for property placed in service through December 31, 2032. (Code Sec. 25C(i)(2))

The Act amends Code Sec. 25C(h) to terminate the energy efficient home improvement property credit for any property placed in service after December 31, 2025. (Act Sec. 70505(a))

Sunsetting Residential Clean Energy Credits by December 31, 2025

Under pre-Act law, taxpayers were eligible for a credit for residential clean energy credit for expenditures. (Code Sec. 25D(a)) Residential clean energy expenditures included expenditures for qualified solar electric property, qualified solar water heating property, qualified fuel cell property, qualified small wind energy property, qualified geothermal heat pump property, and qualified battery storage technology. (Code Sec. 25D(a)) For property placed in service after December 31, 2021 and before January 1, 2033, the credit was for 30 percent of the expenditures. (Code Sec. 25D(g)(3))

The Act amends Code Sec. 25D(h) to terminate the residential clean energy expenditures credit for any expenditures after December 31, 2025. (Act Sec. 70506(a))

Sunsetting Energy Efficient Commercial Buildings Deduction for Construction Beginning after June 30, 2026

Under pre-Act law, taxpayers were eligible for a deduction for an amount equal to the cost of energy efficient commercial building property placed in service during the tax year. (Code Sec. 179D(a)) There were limitations based upon square footage and previous deductions claimed as well as the amount of reduction of energy and power costs. (Code Sec. 179D(b)) Under pre-Act law the deduction was not scheduled for sunsetting.

The Act adds Code Sec. 179D(i) to terminate the energy efficient commercial building deduction for the cost of energy efficient commercial building property the construction of which begins after June 30, 2026. (Act Sec. 70507)

Termination of the Previously-Owned Clean Vehicles Credit

Code Sec. 25E provides a credit for a "qualified buyer" of a used clean vehicle. The credit amount is the lesser of $4,000 or 30% of the vehicle sale price.

The credit is subject to an income cap and a number of other limits and requirements, including that the vehicle model year be at least two years earlier than the calendar year in which the taxpayer acquires the vehicle, the sale price must not exceed $25,000, the seller must be a dealer, a "first transfer" rule must be met, and the taxpayer must purchase the vehicle for use, not resale.

Under pre-Act law, the credit was set to terminate for vehicles acquired after 2032.

The Act significantly changes this and accelerates the termination date to vehicles acquired after September 30, 2025.

This provision is effective as of the date of enactment of The Act. (Act Sec. 70501 amends Code Sec. 25E(g))

Termination of Clean Vehicle Credit

Code Sec. 30D, as modified by the Inflation Reduction Act of 2022, provides a credit for each new clean vehicle a taxpayer places in service in a tax year. The credit is subject to a host of requirements and limits, including the critical mineral and battery component requirements for vehicles placed in service after April 17, 2023.

The critical mineral and battery component requirements are aimed at incentivizing domestic manufacturing and the use of supply chains in the U.S., or with countries with which the U.S. has trusted trade agreements. To that end, an "applicable percentage" of the value of the critical minerals of the vehicle's battery must be extracted or processed in the U.S. or in any country with which the U.S. has a free trade agreement, or recycled in North America. And an applicable percentage of the battery's components must be manufactured or assembled in North America.

Under pre-Act law, the applicable percentages were set at annually increasing percentages, and the credit was to terminate for vehicles placed in service after 2032.

The Act significantly accelerates and changes the parameter for termination, such that the credit now terminates for vehicles acquired after September 30, 2025. And the critical mineral and battery component applicable percentage clauses for vehicles placed in service after calendar year 2026. (pre-Act Code Sec. 30D(e)(1)(B)(v) and Code Sec. 30D(e)(2)(B)(iv)-(vi) are stricken)

Observation: As indicated above, when a vehicle is placed in service affects the Code Sec. 30D credit. And placed in service generally means the date the taxpayer takes delivery of the vehicle. So, although the credit terminates for vehicles acquired after September 30, 2025, if a taxpayer acquires a vehicle before that date but doesn't take delivery until 2026, the credit may be available, albeit subject to the rules for vehicles placed in service in 2026.

This provision is effective as of the date of enactment of The Act. (Act Sec. 70502 amends Code Sec. 30D(h), 30D(e))

Termination of Qualified Commercial Clean Vehicles Credit

Code Sec. 45W provides a credit for taxpayers purchasing qualified commercial clean vehicles for use or sale (not resale).

The credit, which is part of the Code Sec. 38 general business credit, is calculated as the lesser of 15% of the basis of the vehicle (30% for a vehicle not powered by a gasoline or diesel internal combustion engine), or the vehicle's "incremental cost." The maximum allowable credit is $7,500 for a qualified commercial clean vehicle with a gross vehicle weight rating (GVWR) of less than 14,000 pounds, or $40,000 for such a vehicle with a higher GVWR.

Under pre-Act law, the credit was available for vehicles acquired after 2022 and before 2033.

The Act significantly changes this and terminates the credit for any vehicle acquired after September 30, 2025.

This provision is effective as of the date of enactment of The Act. (Act Sec. 70503 amends Code Sec. 45W(g))

Termination of Alternative Fuel Vehicle Refueling Property Credit

Code Sec. 30C provides an "alternative fuel vehicle refueling property" credit for taxpayers that install qualified refueling or recharging property (such as an electric vehicle (EV) charger) in an eligible location. The credit, as modified and extended by the Inflation Reduction Act (IRA) of 2022, could cover the cost of the property itself, along with installation costs, for qualified property located in low income and rural areas (subject to a number of conditions and requirements).

Under pre-Act law, the credit was to terminate for property placed in service after 2032.

The Act significantly accelerates this and terminates the credit for property placed in service after June 30, 2026.

This provision is effective as of the date of enactment of The Act. (Act Sec. 70504 amends Code Sec. 30C(i))

Termination of New Energy Efficient Home Credit

Under pre-Act law, the Code Sec. 45L tax credit for constructing qualified energy-efficient homes was set to expire for homes acquired after December 31, 2032. The credit is $2,500 for ENERGY STAR certified single-family or manufactured homes, and $5,000 for homes meeting the Zero Energy Ready Home standard. For multifamily units, the credit is $500 per unit for ENERGY STAR certification or $1,000 per unit for Zero Energy Ready Home certification. If prevailing wage requirements are met, these amounts increase to $2,500 and $5,000 per unit, respectively.

The Act accelerates the credit's expiration date from its original sunset date (December 31, 2032) to June 30, 2026. As a result, builders and developers will no longer be eligible to claim the credit for homes acquired after that date.

This provision is effective for homes acquired after June 30, 2026. (Act Sec. 70508 amends Code Sec. 45L(h))

EDUCATION

American Opportunity Tax Credit

The American Opportunity Tax Credit is a credit for qualified education expenses paid for an eligible student for the first four years of higher education. You can get a maximum annual credit of $2,500 per eligible student. If the credit brings the amount of tax you owe to $0, you can have 40% of any remaining amount of the credit (up to $1,000) refunded to you.

The amount of the credit is 100% of the first $2,000 of qualified education expenses you paid for each eligible student and 25% of the next $2,000 of qualified education expenses you paid for that student.

To claim the full credit, your modified adjusted gross income must be $80,000 or less ($160,000 or less for married filing jointly). You cannot claim the credit if your modified adjusted gross income is over $90,000 ($180,000 for joint filers).

Lifetime Learning Credit

The lifetime learning credit helps parents and students pay for post-secondary education.

For the tax year, you may be able to claim a lifetime learning credit of up to $2,500 for qualified education expenses paid for all students enrolled in eligible educational institutions. There is no limit on the number of years the lifetime learning credit can be claimed for each student. However, a taxpayer cannot claim both the American opportunity credit and lifetime learning credits for the same student in one year. Thus, the lifetime learning credit may be particularly helpful to graduate students, students who are only taking one course and those who are not pursuing a degree.

Generally, you can claim the lifetime learning credit if all three of the following requirements are met:

- You pay qualified education expenses of higher education.
- You pay the education expenses for an eligible student.
- The eligible student is either yourself, your spouse or a dependent for whom you claim an exemption on your tax return.

If you're eligible to claim the lifetime learning credit and are also eligible to claim the American opportunity credit for the same student in the same year, you can choose to claim either credit, but not both.

If you pay qualified education expenses for more than one student in the same year, you can choose to take credits on a per-student, per-year basis. This means that, for example, you can claim the American opportunity credit for one student and the lifetime learning credit for another student in the same year. The 2025 income phaseout begins at $80,000 for single taxpayers and at $160,000 for married filing jointly.

EGTRRA Changes to Student Loan Deduction Rules are Made Permanent

Individuals can deduct a maximum of $2,500 annually for interest paid on qualified higher education loans. The deduction is claimed as an adjustment to gross income to arrive at adjusted gross income (AGI). For 2026 the deduction phases out ratably for single taxpayers with modified AGI between $85,000 and $100,000 (between $80,000 and $95,000 for 2025) and between $175,000 and $205,000 (between $170,000 and $200,000 for 2025) for married filing jointly. The phaseout amounts and ranges are indexed for inflation.

The Economic Growth and Tax Relief Reconciliation Act amended the rules for deducting interest on student loans, effective generally for tax years beginning after 2001, by:

- eliminating the 60-month limit on the deduction for interest paid on a qualified education loan, and
- increasing the pre-2001 EGTRRA AGI phaseout ranges ($85,000 to $100,000 for taxpayers other than joint filers; $175,000 to $205,000 for a married couple filing jointly) applicable to the student loan interest deduction. The phaseout ranges, as amended by 2001 EGTRRA, were indexed for inflation.

Increased $2,000 Contribution Limit and Other EGTRRA Enhancements to Coverdell ESAs are Made Permanent

An individual can make a nondeductible cash contribution to a Coverdell education savings account ("Coverdell ESA", or "CESA", formerly called an "education IRA") for qualified education expenses of a beneficiary under the age of 18. A specified aggregate amount can be contributed each year by all contributors for one beneficiary. The amount an individual contributor can contribute is phased out as the contributor's modified adjusted gross income (MAGI) exceeds specified levels. A 6% excise tax applies to excess contributions.

Earnings on the contributions made to a CESA are subject to tax when withdrawn. But distributions from a CESA are excludible from the distributee's (i.e., the student's) gross income to the extent the distributions do not exceed the qualified education expenses incurred by the beneficiary during the tax year the distributions are made. The earnings portion of a CESA distribution not used to pay qualified education expense is includible in a distributee's income, and that amount is subject to a 10% tax that applies in addition to the regular tax.

Tax-free (including free of the 10% tax described above) transfers or rollovers of CESA account balances from a CESA benefiting one beneficiary to a CESA benefitting another beneficiary (and resignations of named beneficiaries) are permitted if the new beneficiary is a family member of the previous beneficiary and is under age 30. Generally, a balance remaining in a CESA is deemed to be distributed within 30 days after the beneficiary turns 30.

Under the Economic Growth and Tax Relief Reconciliation Act of 2001, the CESA rules were modified to:

- increase the limit on CESA aggregate annual contributions (from $500) to $2,000 per beneficiary;
- permit corporations and other entities (in addition to individuals) to make contributions to a CESA, regardless of the corporation's or entity's income;
- increase the MAGI phaseout range for joint filers (from $150,000 - $160,000) to $190,000 - $220,000 to equal twice the range for single filers (i.e., $95,000 - $110,000), and so eliminate any "marriage penalty;"
- permit contributions to a CESA for a tax year to be made until April 15th of the following year;
- modify the definition of excess contribution to a CESA for purposes of the 6% excise tax on excess contributions to reflect various other EGTRRA changes;
- extend the time (to before June 1st of the following tax year) for taxpayers to withdraw excess contributions (and the earnings on them) to avoid imposition of the 6% excise tax;
- expand the definition of education expenses that can be paid by CESAs to include elementary and secondary school expenses (in addition to qualified higher education expenses);
- provide for coordination of the Hope and Lifetime Learning credits with the CESA rules to permit a Hope or Lifetime Learning credit to be taken in the same year as a tax-free distribution is taken from a CESA for a designated beneficiary (but for different expenses);
- provide rules coordinating distributions from both a qualified tuition program (QTP, or "529 plan") and a CESA for the same beneficiary for the same tax year (but for different expenses);
- eliminate the age limitations described above for acceptance of CESA contributions, deemed balance distributions, tax-free rollovers to other family-member-beneficiaries, and tax-free change of beneficiaries, for "special needs beneficiaries;"
- provide that the 10% additional tax on taxable distributions from a CESA does not apply to distributions of contributions to a CESA made by June 1st of the tax year following the tax year in which the contribution was made.

Specifically, as a result of the above extension, the following rules apply on a permanent basis:

- the limit on CESA aggregate annual contributions is $2,000 per beneficiary (and is not decreased to $500 per beneficiary);
- corporations and other entities (not just individuals) can make contributions to a CESA, and the corporations and other entities can do so regardless of their income;
- the MAGI phaseout range for joint filers is $190,000 - $220,000 (and does not decrease to $150,000 - $160,000);
- CESA contributions for a tax year can be made until April 15th of the following year;
- the definition of CESA excess contribution reflects the various other EGTRRA changes to the CESA rules;

- taxpayers have until June 1st of the following tax year to withdraw excess contributions (and the earnings on them) to avoid imposition of the 6% excise tax;
- education expenses that can be paid by CESAs include elementary and secondary school expenses and qualified higher education expenses (rather than only qualified higher education expenses);
- a Hope or Lifetime Learning credit can be taken in the same year as a tax-free distribution is taken from a CESA for a designated beneficiary (but for different expenses);
- the rule coordinating distributions being made from both a QTP and a CESA for the same beneficiary for the same tax year (but for different expenses) applies;
- special needs beneficiaries are exempted from the age limitations for a CESA's acceptance of contributions, deemed balance distributions, tax-free rollovers to other family-member-beneficiaries, and tax-free change of beneficiaries; and
- the 10% additional tax on taxable distributions from a CESA is inapplicable to distributions of contributions to a CESA made by June 1st of the tax year following the tax year in which the contribution was made.

Exclusion for Employer-Provided Educational Assistance, and Restoration of the Exclusion for Graduate-Level Courses, Made Permanent

Under Code Sec. 127, an employee's gross income does not include amounts paid or expenses incurred (up to $5,250 annually) by the employer in providing educational assistance to employees under an educational assistance program. An educational assistance program is a separate written plan of the employer for the exclusive benefit of its employees, having the purpose of providing the employees with educational assistance. The courses taken need not be related to the employee's job for the exclusion to apply. To be qualified, the program must not discriminate in favor of highly compensated employees, nor may more than 5% of the amounts paid or incurred by the employer for educational assistance during the year be provided for individuals (and their spouses and dependents) owning more than 5% of the employer. Further, the program cannot provide employees with a choice between educational assistance and other remuneration that would be includible in their gross income. Finally, reasonable notification of the program's availability and terms must be provided to employees.

Before the 2001 Economic Growth and Tax Relief Reconciliation Act (EGTRRA), Congress had periodically waited until the educational assistance exclusion was set to expire before renewing it, and had sometimes allowed it to expire, and then extended it retroactively. The exclusion was set to expire for courses beginning after December 31, 2001. Under EGTRRA, the exclusion was extended "permanently" subject to the EGTRRA sunset.

Also, EGTRRA restored the exclusion for graduate level courses, which had earlier been eliminated. This was also subject to the EGTRRA sunset.

Income Exclusion for Awards Under the National Health Service Corps and Armed Forces Health Professions Programs Made Permanent

Gross income does not include (i) any amount received as a "qualified scholarship" by an individual who is a candidate for a degree at a primary, secondary, or post-secondary educational institution, or (ii) qualified tuition reductions for certain education provided to employees (and their spouses and dependents) of those educational institutions. But these exclusions do not apply to any amount that a student receives that represents payment for teaching, research, or other services provided by the student, required as a condition for receiving the scholarship or tuition reduction.

Thus, before enactment of the Economic Growth and Tax Relief Reconciliation Act of 2001, there was no exclusion from gross income for health profession scholarship programs which required scholarship recipients to provide medical services as a condition for their awards.

EGTRRA provided that education awards received under specified health scholarship programs may be tax-free qualified scholarships, without regard to any service obligation on the part of the recipient. Specifically, the rule that the exclusions for qualified scholarships and qualified tuition do not apply to amounts received which represent compensation does not apply to any amount received by an individual under the following programs:

- The National Health Service Corps Scholarship Program (the "NHSC Scholarship Program," under Sec. 338A(g)(1)(A) of the Public Health Services Act), and
- The F. Edward Hebert Armed Forces Health Professions Scholarship and Financial Assistance program (the "Armed Forces Scholarship Program," under Subchapter 1 of Chapter 105 of Title 10 of the United States Code).

EGTRRA provided that education awards received under specified health scholarship programs may be tax-free qualified scholarships, without regard to any service obligation on the part of the recipient. Specifically, the rule that the exclusions for qualified scholarships and qualified tuition do not apply to amounts received which represent compensation does not apply to any amount received by an individual under the following programs:

- The National Health Service Corps Scholarship Program (the "NHSC Scholarship Program," under Sec. 338A(g)(1)(A) of the Public Health Services Act), and
- The F. Edward Hebert Armed Forces Health Professions Scholarship and Financial Assistance program (the "Armed Forces Scholarship Program," under Subchapter 1 of Chapter 105 of Title 10 of the United States Code).

Interest Exclusion for Higher Education

The interest on U.S. Savings Bonds redeemed to pay qualified higher education expenses may be tax-free. The exclusion is phased out at certain income levels, which are adjusted annually for cost-of-living increases. The phaseout for 2026 will begin at modified adjusted gross income above $101,800 ($99,500 for 2025) for single taxpayers, and $152,650 ($149,250 for 2025) for joint filers.

Scholarships and Fellowships

A scholarship is generally an amount paid or allowed to, or for the benefit of, a student at an educational institution to aid in the pursuit of studies. The student may be either an undergraduate or a graduate. A fellowship is generally an amount paid for the benefit of an individual to aid in the pursuit of study or research. Generally, whether the amount is tax free or taxable depends on the expense paid with the amount and whether you are a degree candidate.

A scholarship or fellowship is tax free only if you meet the following conditions:

- You are a candidate for a degree at an eligible educational institution.
- You use the scholarship or fellowship to pay qualified education expenses.

Qualified Education Expenses
For purpose of tax-free scholarships and fellowships, these are expenses for:

- Tuition and fees required to enroll at or attend an eligible educational institution.
- Course-related expenses, such as fees, books, supplies, and equipment that are required for the courses at the eligible educational institution. These items must be required of all students in your course of instruction.

However, in order for these to be qualified education expenses, the terms of the scholarship or fellowship cannot require that it be used for other purposes, such as room and board, or specify that it cannot be used for tuition or course-related expenses.

Expenses that Do Not Qualify
Qualified education expenses do not include the cost of:

- Room and board.
- Travel.
- Research.
- Clerical help.
- Equipment and other expenses that are not required for enrollment in or attendance at an eligible educational institution.

This is true even if the fee must be paid to the institution as a condition of enrollment or attendance. Scholarship or fellowship amounts used to pay these costs are taxable.

Illinois "Bright Start" College Savings Plan

The Illinois "Bright Start" college savings plan is being offered under provisions of Section 529 of the Internal Revenue code. Bright Start works by investing in mutual funds. Illinois has contracted with Oppenheimer Funds to manage the investment trust. Portfolios are managed by OFI Private Investments, Inc., a subsidiary of Oppenheimer Funds, Inc. and Illinois Investments managed by Oppenheimer Funds, Inc. and its affiliates, as well as the Vanguard Group and American Century Investments.

Illinois also has “College Illinois” which has been around for a few years. Prepaid tuition through the college Illinois plan is a less aggressive investment, a defined benefit plan that acts as a hedge against tuition inflation by allowing parents and grandparents to lock in current tuition rates for state schools.

Section 529 college savings plans offer contribution advantages over another option called Coverdell Education Savings Accounts with their low annual deposit limits of $2,000.

Contributions of up to $19,000 a year and between $500,000 - $600,000 over the life of the account are permitted in Bright Start.

Provisions for lump sum contributions as large as $90,000 ($180,000 for married couples) without gift tax penalties are also included in the tax code, in case grandma and grandpa want some of their nest egg to go toward educating their grandchildren.

Private institutions may be sponsors of prepaid tuition programs. The definition of a “Qualified Tuition Program” will include certain prepaid tuition programs established and maintained by eligible educational institutions (including private institutions) that satisfy the requirements under code section 529.

Exclusion for qualifying payouts. Distributions will be excluded from gross income to the extent they are used to pay for qualified higher education expenses. The exclusion will apply to payouts from qualified state tuition programs, and to payouts from qualified tuition programs established and maintained by entities other than a state. Starting January 1, 2018, the definition of qualified higher education expenses is expanded to include tuition for K-12 schools, as a result of the 2017 Tax Cuts and Jobs Act. However, the new law limits qualified 529 withdrawals for eligible K-12 tuition to $10,000 per beneficiary per year.

Qualified higher education expenses will include special needs services for special needs beneficiaries.

For the exclusion for distributions from qualified tuition plans to pay for qualified higher educational expenses, including room and board, the maximum room and board allowance will be the actual amount charged by the educational institution for room and board.

During the same tax year, taxpayers will be able to claim the American Opportunity Credit or Lifetime Learning Credit and exclude amounts distributed from a qualified tuition program for the same student as long as the distribution is not used for the same expenses as which a credit will be claimed.

The definition of a family member for purposes of beneficiary changes and rollovers will include first cousins of the original beneficiary.

Coverdell ESAs and Qualified Tuition Programs offer essentially the same income tax benefit, namely tax-free earnings if payouts are made for qualified educational purposes. However, each offers a unique combination of benefits and limitations. For example, a Coverdell ESA can be used for elementary and secondary school expenses or college costs, but annual contributions are limited $2,000 per beneficiary and an individual’s contributions are subject to AGI phase outs. The qualified tuition program, on the other hand, does not restrict contributions, but must be used for higher education. The best savings vehicle ultimately will depend on the needs of the donor and the beneficiary who will receive the education.

Unlike custodial mutual funds in his name that become his property at age 18, college savings plans like Bright Start remain in the name of the adult who opened the account. The beneficiary may be changed to another family member, including adults who may want to pursue an advanced degree.

The account is also not included as part of the owner’s taxable estate.

However, withdrawals for nonqualified education expenses incur a federally mandated 10% penalty on top of the income being taxed at the owner’s higher rate.

Most Section 529 savings plans offered by other states are open to out-of-state residents.

Bright Start applications and other information are available at 877-43-BRIGHT or online at www.brightstart.com.

TRUST AND ESTATE INCOME TAX

On December 22, 2017, the president signed into law P.L. 115-97, known as the Tax Cuts and Jobs Act which provides the following tax brackets for tax years 2018 through 2025 for trusts' and estates' income tax at 10%, 24%, 35% and 37% marginal tax rates.

2026 Rate Schedule for Trusts and Estates:

If taxable income is:	The tax would be:
Not over $3,300	10% of taxable income
Over $3,300 but not over $11,700	$330 plus 24% of the excess over $3,300
Over $11,700 but not over $16,000	$2,346 plus 35% of the excess over $11,700
Over $16,000	$3,851 plus 37% of the excess over $16,000

2025 Rate Schedule for Trusts and Estates:

If taxable income is:	The tax would be:
Not over $3,150	10% of taxable income
Over $3,150 but not over $11,450	$315 plus 24% of the excess over $3,150
Over $11,450 but not over $15,650	$2,307 plus 35% of the excess over $11,450
Over $15,650	$3,777 plus 37% of the excess over $15,650

ESTATE, GIFT, AND GENERATION-SKIPPING TRANSFER TAXES

Estate Tax

The Estate Tax is a tax on your right to transfer property at your death. It consists of an accounting of everything you own or have certain interests in at the date of death. The fair market value of these items is used, not necessarily what you paid for them or what their values were when you acquired them. The total of all of these items is your "Gross Estate." The includible property may consist of cash and securities, real estate, insurance, trusts, annuities, business interests and other assets.

Once you have accounted for the Gross Estate, certain deductions (and in special circumstances, reductions to value) are allowed in arriving at your "Taxable Estate." These deductions may include mortgages and other debts, estate administration expenses, property that passes to surviving spouses and qualified charities. The value of some operating business interests or farms may be reduced for estates that qualify.

After the net amount is computed, the value of lifetime taxable gifts (beginning with gifts made in 1977) is added to this number and the tax is computed. The tax is then reduced by the available unified credit.

Most relatively simple estates (cash, publicly traded securities, small amounts of other easily valued assets, and no special deductions or elections, or jointly held property) do not require the filing of an estate tax return. A filing is required for estates with combined gross assets and prior taxable gifts exceeding $11,180,000 in 2018, $11,400,000 in 2019, $11,580,000 in 2020, $11,700,000 in 2021, $12,060,000 in 2022, 12,920,000 in 2023, 13,610,000 in 2024, 13,990,000 in 2025, and $15,000,000 in 2026.

Beginning January 1, 2011, estates of decedents survived by a spouse may elect to pass any of the decedent's unused exemption to the surviving spouse. This election is made on a timely filed estate tax return for the decedent with a surviving spouse. Note that simplified valuation provisions apply for those estates without a filing requirement absent the portability election.

2026 Estate Tax Rates

If taxable income is:	The tax would be:
$500,000 to $750,000	$155,800 plus 37% of the excess over $500,000
$750,000 to $1,000,000	$248,300 plus 39% of the excess over $750,000
Over $1,000,000	$345,800 plus 40% of the excess over $1,000,000

Unified Estate and Gift Tax Exclusion Amount

For gifts made and estates of decedents dying in 2026, the exclusion amount will be $15,000,000 ($13,990,000 for 2025).

Generation-Skipping Transfer (GST) Tax Exemption

The exemption from GST tax will be $15,000,000 for transfers in 2026 ($13,990,000 for 2025).

Gift Tax Annual Exclusion

For gifts made in 2026, the gift tax annual exclusion will be $19,000 ($19,000 for 2025).

Special Use Valuation Reduction Limit

For estates of decedents dying in 2026, the limit on the decrease in value that can result from the use of special valuation will be $1,460,000 ($1,420,000 for 2025).

Determining 2% Portion for Interest on Deferred Estate Tax

In determining the part of the estate tax that is deferred on a farm or closely-held business that is subject to interest at a rate of 2% a year, for decedents dying in 2026, the tentative tax will be computed on $1,940,000 ($1,900,000 for 2025) plus the applicable exclusion amount.

Annual Exclusion for Gifts to Noncitizen Spouses

For gifts made in 2026, the annual exclusion for gifts to noncitizen spouses will be $194,000 ($190,000 for 2025).

PENSION AND IRA PROVISIONS

Plan Benefit and Contribution Limits

Defined Benefit Plans
The maximum annual benefit payable at retirement under a defined benefit plan is generally the lesser of 100% of average compensation or a statutory amount, $285,000 for 2026 ($280,000 for 2025).

Defined Contribution Plans
The qualification rules for defined contribution plans limits the annual additions for each plan participant to the lesser of 25% of compensation or a statutory amount $72,000 for 2026 ($70,000 for 2025).

Compensation Limit
The annual compensation of each participant that can be taken into account for purposes of determining contributions and benefits under a plan is limited to a statutory amount, $360,000 for 2026 ($350,000 for 2025).

Elective Deferral Limitations
The limit on the deductible amount of elective deferrals to 401(k) plans and 403(b) annuities may not exceed the "applicable dollar amount." The applicable dollar amount for these plans will be $24,500 for 2026 ($23,500 for 2025).

The deductible amount of elective deferrals to SIMPLE plans will be limited to another "applicable dollar amount." The applicable dollar amount for SIMPLE plans will be $17,000 for 2026 ($16,500 for 2025).

Section 457 Plans
The limit on the deductible amount of elective deferrals to a Section 457 plan is also an applicable dollar amount. The maximum annual deferral will be $24,500 for 2026 ($23,500 for 2025).

Under the special catch-up rule, the limit is twice the otherwise applicable dollar amount in the three years before retirement.

For Individuals Over Age 50, Additional Elective Deferrals in Excess of Otherwise Applicable Limits

The otherwise applicable dollar limit on elective deferrals under a Section 401(k) plan, Section 403(b) annuity, Simplified Employee Pension (SEP), or SIMPLE, or deferrals under a government Section 457 plan is increased for individuals who have attained age 50 by the end of the year. The additional amount of contributions that may be made is the lesser of (1) a specified dollar amount or (2) the participant's compensation for the year reduced by his or her other elective deferrals for the year. The dollar amount under a Section 401(k) plan, Section 403(b) annuity, SEP, or Section 457 plan is $8,000 for 2026 ($7,500 for 2025).

The dollar amount under a SIMPLE plan is $4,000 for 2026 ($3,500 for 2025).

Higher IRA Contribution Limits

An individual may make annual deductible contributions to a traditional IRA if neither the individual nor his spouse is an active participant in an employer-sponsored retirement plan. For a married couple, deductible IRA contributions can be made for each spouse (including, for example, a homemaker who does not work outside the home) if the combined compensation of both spouses is at least equal to the contributed amount. If the individual is an active participant in an employer-sponsored retirement plan, the deduction limit is phased - out if Adjusted Gross Income exceeds certain levels for the tax year. For example, for 2026, the IRA deduction for single taxpayers phased out over $81,000 to $91,000 ($79,000 to $89,000 in 2025) of Adjusted Gross Income, $129,000 to $149,000 ($126,000 to $146,000 in 2025) for married taxpayers filing jointly. For a nonactive participant who had an active-participant spouse, the IRA deduction phaseout begins at $242,000 of Adjusted Gross Income in 2026 ($236,000 in 2025).

Contributions to Roth IRAs are subject to income limits. For 2026, the maximum yearly contribution that can be made to a Roth IRA is phased out for a single individual with an Adjusted Gross Income between $153,000 and $168,000 (between $150,000 and $165,000 for 2025) and for joint filers with Adjusted Gross Income between $242,000 and $252,000 (between $236,000 and $246,000 for 2025).

The maximum annual dollar contribution limit for IRA contributions will increase to the following levels:

Tax Years Beginning in	Maximum Deductible IRA Amount
2026	$7,500

Individuals who attain age 50 before the close of the tax year will be able to make additional catch-up IRA contributions. The otherwise allowable maximum contribution limit (before applying the Adjusted Gross Income phaseout limits) for these individuals will be $1,100 for 2006 and later years.

401(k) and 403(b) Plans May Treat Post-2005 Elective Deferrals as After-Tax Roth IRA Type Contributions

For tax years beginning after 2005, a 401(k) plan or 403(b) annuity will be allowed to include a "qualified Roth contribution program" that allows participants to elect to have all or part of their elective deferrals treated as Roth contributions. These deferrals will not be excludable from gross income. The annual dollar limit on a participant's Roth contribution will be the then-applicable Code Section 402(g) limitation on elective deferrals (e.g., $24,500 in 2026). This new option for elective deferrals will allow taxpayers to make larger annual Roth IRA contributions than they can make with regular Roth IRAs.

Tax Credit to Help Lower-Income Taxpayers Save for Retirement

Eligible lower-income taxpayers can claim a nonrefundable tax credit for contributions to certain qualified plans. **The maximum annual contribution eligible for the credit is $2,000.**

The credit will be in addition to any deduction or exclusion that would otherwise apply for a contribution. Only an individual who is 18 or over (other than a full-time student or an individual allowed as a dependent on another taxpayer's return) will be eligible for the credit.

The credit will be available for elective contributions to 401(k) plans, 403(b) annuities, Section 457 plans, SIMPLE or SEP plans, traditional or Roth IRAs, and voluntary after-tax employee contributions to a qualified retirement plan. The amount of any credit-eligible contribution will be reduced by taxable distributions received by the taxpayer.

The credit rate (50%, 20%, or 10%) depends on the taxpayer's filing status and modified Adjusted Gross Income. For 2026, the rates are as follows:

Modified Adjusted Gross Income						Applicable Percentage
Joint Return		*Head of Household*		*All Other Cases*		
Over	Not Over	Over	Not Over	Over	Not Over	
$ - 0 -	$48,500	$ - 0 -	$36,375	$ - 0 -	$24,250	50%
$48,500	$52,500	$36,375	$39,375	$24,250	$26,250	20%
$52,500	$80,500	$39,375	$60,375	$26,250	$40,250	10%
$80,500		$60,375		$40,250		0%

The maximum credit allowed to an individual will be $1,000 ($2,000 x 50%) on joint returns with modified Adjusted Gross Income not over $48,500.

Roth IRA Conversion

All taxpayers, regardless of their modified adjusted gross income (AGI), may convert amounts in a traditional IRA to amounts in a Roth IRA. Marrieds filing separately also are eligible. Before 2010, only taxpayers with modified AGI of $100,000 or less could make such conversion, and marrieds filing separately were not eligible regardless of modified AGI.

Amounts from a SEP-IRA or a SIMPLE IRA also may be converted to a Roth IRA, but a conversion from a SIMPLE IRA may be made only after the 2-year period beginning on the date on which the taxpayer first participated in any SIMPLE IRA maintained by the taxpayer's employer.

A conversion from a regular IRA to a Roth IRA generally is subject to tax as if it were distributed from the traditional IRA and not recontributed to another IRA, but is not subject to the 10% premature distribution tax.

Roth IRAs have two major advantages over regular IRAs:

- Distributions from regular IRAs are taxed as ordinary income (except to the extent they represent nondeductible contributions). By contrast, Roth IRA distributions are tax-free if they are "qualified distributions," that is, if they are made after the 5-tax-year period that begins with the first tax year for which the taxpayer made a contribution to a Roth IRA, and when the account owner is 59 ½ years of age or older, or on account of death, disability, or the purchase of a home by a qualified first-time homebuyer (limited to $10,000).
- Regular IRAs are subject to the lifetime required minimum distribution (RMD) rules that generally require minimum annual distributions to be made commencing in the year following the year in which the IRA owner attains age 72 (73 if you reached age 72 after December 31, 2022). By contrast, Roth IRAs are not subject to the lifetime RMD rules that apply to regular IRAs (as well as individual account qualified plans).

The consensus view is that the conversion route should be considered by taxpayers who:

- Have a number of years to go before retirement (and are therefore able to recoup the dollars that are lost to taxes on account of the conversion),
- Anticipate being taxed in a higher bracket in the future than they are now, and
- Can pay the tax on the conversion from non-retirement-account assets (otherwise, there will be a smaller buildup of tax-free earnings in the depleted retirement account.

Roth IRA Contributions

Individuals may make nondeductible contributions to a Roth IRA, subject to the overall limit on IRA contributions. The maximum annual contribution that can be made to a Roth IRA is phased out for taxpayers with MAGI over certain levels for the tax year. For taxpayers filing joint returns, the otherwise allowable contributions to a Roth IRA will be phased out ratably in 2026 for MAGI between $242,000 and $252,000 (between $236,000 and $246,000 for 2025). For single taxpayers and heads of household it will be phased out ratably for MAGI between $153,000 and $168,000 (between $150,000 and $165,000 for 2025). For married taxpayers filing separate returns, the otherwise allowable contribution will continue to be phased out ratably for MAGI between $0 and $10,000 (no change for 2025).

Distributions from Elective Deferral Plans May be Rolled Over to Designated Roth Accounts

The new law allows 401(k), 403(b), and governmental 457(b) plans to permit participants to roll over their pre-tax account balances into a designated Roth account. The amount of the rollover will be includible in taxable income except to the extent it is the return of after-tax contributions.

To be eligible for rollover to a designated Roth account, a distribution must be (i) an eligible rollover distribution, (ii) otherwise allowed under the plan, and (iii) allowable in the amount and form elected. For example, an amount in a 401(k) plan account that is subject to distribution restrictions (e.g., because the participant has not reached age 59 ½) cannot be rolled over to a designated Roth account under the new rollover rules. However, an employer may expand its distribution options beyond those currently allowed by the plan (e.g., by adding in-service distributions before normal retirement age) in order to allow employees to make rollover contributions to a designated Roth account through a direct rollover to the designated Roth account within that plan.

If a plan allows rollover contributions to a designated Roth account, the plan must be amended to reflect this plan feature.

Although there are many similarities between the treatment of Roth IRAs and designated Roth accounts, one difference is that, in determining the taxation of Roth IRA distributions that are not qualified distributions, after-tax contributions are considered recovered before income. This basis-first recovery rule for Roth IRAs does not apply to distributions from designated Roth accounts. Another difference is that a first-time homebuyer expense can be a qualified distribution from a Roth IRA (even without the occurrence of another event, such as the individual reaching age 59 ½), but cannot by itself be qualified distribution from a designated Roth account.

A taxpayer who can rollover an amount from an applicable employer plan to either a Roth IRA or a designated Roth account, might consider whether taking withdrawals from the Roth account or Roth IRA within the five-tax-year holding period for qualified distributions would result in additional tax on a distribution from a designated Roth account (because for the unavailability of the basis-first recovery rule). Also, a taxpayer who is contemplating a withdrawal from the Roth account or Roth IRA to purchase a home as a first-time homebuyer, but who has not yet reached age 59 ½, should consider that such a withdrawal can be qualified distribution from a Roth IRA, but not from a designated Roth account, if the taxpayer has not reached age 59 ½.

Under the 2010 Small Business Act, the tax-free treatment of rollovers that ordinarily applies (under Code Sec. 402(c) for qualified plans, under Code Sec. 403(b)(8) for 403(b) annuities and under Code Sec. 457(e)(16) for governmental section 457 plans) does not apply for distributions rolled over from an applicable retirement plan to a designated Roth account (as described above). Rather, the amount that an individual receives in a distribution from an applicable retirement plan that would be includible in gross income if it were not part of qualified rollover distribution, must be included in his gross income.

If a direct rollover is made by a transfer of property to a designated Roth account, then the amount of the distribution is the fair market value of the property on the date of the transfer.

Multiemployer Pension Reform

The consolidated and further appropriations Act of 2015 contains a significant 160 page amendment on multiemployer pension reform. This legislation is designed to give multiemployer pension plans the tools they need to remain viable. One of the new provisions allow trustees of severely underfunded plans to adjust vested benefits without violating the Code Sec. 411(d)(6) anti-cutback rule, which may enable deeply troubled plans to survive without a federal bailout.

Repeal of the Rule Allowing Recharacterization of IRA Contributions

Under pre-Act law, if an individual makes a contribution to an IRA (traditional or Roth) for a tax year, the individual is allowed to recharacterize the contribution as a contribution to the other type of IRA (traditional or Roth) by making a trustee-to-trustee transfer to the other type of IRA before the due date for the individual's income tax return for that year. In the case of a recharacterization, the contribution will be treated as having been made to the transferee IRA (and not the original, transferor IRA) as of the date of the original contribution. Both regular contributions and conversion contributions to a Roth IRA can be recharacterized as having been made to a traditional IRA.

For tax years beginning after December 31, 2017, the rule that allows a contribution to one type of IRA to be recharacterized as a contribution to the other type of IRA does not apply to a conversion contribution to a Roth IRA. Thus, recharacterization cannot be used to unwind a Roth conversion.

Extended Rollover Period for Rollover of Plan Loan Offset Amounts

If an employee stops making payments on a retirement plan loan before the loan is repaid, a deemed distribution of the outstanding loan balance generally occurs. Such a distribution is generally taxed as though an actual distribution occurred, including being subject to a 10% early distribution tax, if applicable. A deemed distribution is not eligible for rollover to another eligible retirement plan.

Under pre-Act law, a plan may also provide that, in certain circumstances (for example, if an employee terminates employment), an employee's obligation to repay a loan is accelerated and, if the loan is not repaid, the loan is cancelled and the employee's account balance is offset by the amount of the unpaid loan balance, referred to as a loan offset. A loan offset is treated as an actual distribution from the plan equal to the unpaid loan balance (rather than a deemed distribution), and (unlike a deemed distribution) the amount of the distribution is eligible for tax free rollover to another eligible retirement plan within 60 days. However, the plan is not required to offer a direct rollover with respect to a plan loan offset amount that is an eligible rollover distribution, and the plan loan offset amount is generally not subject to 20% income tax withholding.

For plan loan offset amounts which are treated as distributed in tax years beginning after December 31, 2017, the Act provides that the period during which a qualified plan loan offset amount may be contributed to an eligible retirement plan as a rollover contribution would be extended from 60 days after the date of the offset to the due date (including extensions) for filing the Federal income tax return for the tax year in which the plan loan offset occurs – that is, the tax year in which the amount is treated as distributed from the plan. A qualified plan loan offset amount is a plan loan offset amount that is treated as distributed from a qualified retirement plan, a Code Sec. 403(b) plan, or a governmental Code Sec. 457(b) plan solely by reason of the termination of the plan or the failure to meet the repayment terms of the loan because of the employee's separation from service, whether due to layoff, cessation of business, termination of employment, or otherwise. A loan offset amount under the Act (as before) is the amount by which an employee's account balance under the plan is reduced to repay a loan from the plan.

ANALYSIS OF KEY TAX PROVISIONS IN SECURE 2.0

The following is a breakdown of tax provisions in the Setting Every Community Up for Retirement Enhancement 2.0 Act of 2022 (SECURE 2.0 or the Act).

Modification of Credit for Small Employer Pension Plan Start-up Costs

The Act changes the small employer pension plan start-up cost credit by (i) providing that the credit is equal to the entire amount of creditable costs (qualified start-up costs) of an employer with 50 or fewer employees (up to an annual cap), (ii) allowing a credit amount for employer contributions to small employer pensions, and (iii) fixing a technical glitch pertaining to small employers who join multiemployer plans.

Increased credit for start-up costs. The Act increases the small employer pension plan start-up cost credit from 50% to 100% of qualified start-up costs for employers with up to 50 employees. Employers with 51 to 100 employees will continue to be eligible for a small employer pension credit of 50% of qualified start-up costs. In either case, an annual cap based on the number of employees, with a maximum of $5,000, applies (unchanged from existing law). The small employer pension credit is available for the first three tax years of the plan's existence.

Credit for employer contributions. The Act also provides a credit amount for all or a portion of employer contributions to small employer pensions for the first five employer tax years beginning with the one that includes the plan's start date. Specifically, the amount of the small employer pension credit allowed is increased by the applicable percentage of employer contributions on behalf of employees, up to a per-employee cap of $1,000. The applicable percentage is 100% in the first and second tax years, 75% in the third year, 50% in the fourth year, and 25% in the fifth year. No credit is available in the sixth and subsequent years.

> The applicable percentage is based on the date the plan was established, not when employees begin to participate in the plan.

The amount of the credit allowed for employer contributions is reduced for employers with between 51 and 100 employees (inclusive). The reduction is equal to 2% multiplied by the number of employees is in excess of 50 multiplied by the amount of the credit.

> ***Example***. A, an employer with 70 employees, establishes a small employer pension. A contributes $1,000 per employee to the plan in the first year. The amount of its small employer pension credit for employer contributions is determined as follows: First, multiply its total contributions ($70,000) by the applicable percentage (100%) for a result of $70,000. Next, determine the reduction by multiplying 2% by the number of A's employees greater than 50 (70-50=20) for a result of 40%. So, the $70,000 figure in the first step will have to be reduced by 40% ($70,000 x 40%), or $28,000. Thus, A can take a small employer pension credit of $42,000 ($70,000-$28,000). (Of course, once A determined the 40% reduction percentage, it could have obtained the same result by simply multiplying $70,000 by 60%.)

No credit is allowed for employer contributions if the employer has more than 100 employees.

In addition, no credit is allowed for employer contributions on behalf of an employee who makes more than $100,000. The $100,000 figure is adjusted for inflation (in multiples of $5,000, rounding down) in tax years beginning after 2023.

The credit amount for employer contributions is not available either for elective deferrals under Code Sec. 402(g)(3) or for contributions to a defined benefit plan under Code Sec. 414(j).

> The Act changes the credit so it now has two portions, calculated separately: a qualified start-up cost portion available for the first three years of the plan's existence and an employer-contribution portion, available for the first five years of the plan's existence.

The above rules apply to tax years beginning after December 31, 2022.

Multiemployer plans. The Act also allows employers joining a multiple employer plan (MEP, which includes pooled employer plans) to take the portion of the SEP credit for qualified start-up costs for the first three years after they join an MEP, regardless of how long the MEP has been in existence.

> Under prior law, the credit had been available for only the first three years the MEP itself was in existence. For example, if the MEP had been in existence for one year when the employer joined, the employer would only get to claim the SEP credit for two years. If the MEP had been in existence for three or more years, the employer would get no credit. The Act fixes this technical glitch.

The MEP rule is effective retroactively for tax years beginning after December 31, 2019.

New Credit for Small Employers for when Military Spouses Start Their Participation in Employers' Defined Contributed Plans

The Act adds a new tax credit for small employers-those with no more than 100 employees that earned at least $5,000 for the preceding year. The credit is for each military spouse that starts participating in an eligible defined contribution plan of the employer. Highly compensated employees (under Code Sec. 414(q)) are excluded from credit consideration.

The annual credit amount is (1) $200 for each military spouse who participates in the employer's plan, plus (2) the amount of related employer contributions to the plan (but capped at $300 of contributions for any individual). A military spouse is counted for the credit only for the tax year which includes the date they begin participating in the plan and for the two succeeding tax years. Additionally, the Act provides safeguards for eligibility, and for employer contribution entitlement, that plans must satisfy to qualify for the credit.

The credit is available for tax years beginning after the date of enactment of the Act.

Age Requirement for Qualified ABLE Programs Modified

States may establish tax-exempt ABLE programs to assist persons with disabilities. An individual who is disabled or blind may establish and become the designated beneficiary of an ABLE account under a state's program. Under pre-Act law, the disability or blindness must have occurred before age 26.

The Act would increase this age limit to 46, thus making more individuals eligible to establish an ABLE account. The amendment would be effective for tax years beginning after December 31, 2025.

Tax-Free Rollovers from 529 Accounts to Roth IRAs Permitted

The Act permits beneficiaries of 529 college savings accounts to make direct trustee-to-trustee rollovers from a 529 account in their name to their Roth IRA without tax or penalty. This provides an option for 529 accounts that have a balance remaining after the beneficiary's education is complete.

The 529 account must have been open for more than 15 years. The rollover can't exceed the aggregate amount contributed to the account (and earnings thereon) more than five years before the rollover.

Aggregate rollovers under the provision can't exceed $35,000 over the beneficiary's lifetime. Rollovers are subject to the Roth IRA annual contribution limits, but the limit based on the taxpayer's adjusted gross income is waived.

The amendments are effective for distributions after December 31, 2023.

Certain Disability-Related First Responder Retirement Payments Excluded from Income

The Act allows first responders (law enforcement officers, fire fighters, paramedics, or emergency medical technicians) to exclude from gross income certain service-related disability pension or annuity payments (from a 401(a), 403(a), governmental 457(b), or 403(b) plan) after they reach retirement age.

The exclusion would be effective for amounts received for tax years beginning after December 31, 2026.

Statute of Limitations on Assessment of Excise Tax on Excess Contributions to, and Certain Accumulations in, Individual Retirement Plans

The Act provides that the statute of limitations for the assessment of excise taxes due to excess contributions to tax-favored accounts and accumulations on qualified retirement plans begins to run on the filing of the taxpayer's income tax return for the year of the violation. The limitations period is three years (six years in the case of excess contributions).

Therefore, the filing of the Form 5329 excise tax return by the private foundation, plan, trust, or other organization administering the plan would no longer be required to start the statute of limitations.

If an individual is not required to file an income tax return for that year, the statute of limitations would nevertheless begin on the date the return would have been due.

The section is effective as of the date of the enactment of the Act.

Deductions for Qualified Conservation Contributions Are Limited for Pass-Through Entities

SECURE 2.0 disallows a charitable deduction for an otherwise-qualified conservation contribution-also known as a conservation easement-that is made by a partnership, S corporation, or other pass-through entity, if the amount of the contribution exceeds 2.5 times the sum of each partner/member's relevant basis in the contributing entity. Exceptions to this disallowance rule apply where the contribution meets a three-year holding period test, where substantially all of the contributing entity is owned by members of a family, or where the contribution relates to the preservation of a certified historic structure. For contributions for the preservation of certified historic structure, a new reporting requirement applies. Certain existing penalty rules and statute-of-limitations extension rules apply to the new disallowance provision.

In a separate rule, unrelated to the disallowance rule for pass-throughs, taxpayers can correct easement deed language for extinguishment clauses and boundary line adjustments, substituting safe-harbor language to be issued by IRS. But this safe-harbor correction provision doesn't apply to easement deeds involving: tax shelters; contributions to which the above disallowance rule applies; docketed Tax Court cases; and deductions to which certain penalties applied, where the penalties have been administratively or judicially finalized.

This provision applies to contributions made after the date of enactment of the Act.

Changes to the Retirement Rules for Tax Court Judges

The Act allows Tax Court judges to receive Thrift Savings Plan automatic and matching contributions as long as they are not covered by a judicial retirement plan. This aligns the rules for Tax Court judges with the rules for other federal judges. Tax Court judges who later elect to receive judicial retirement benefits will have offsets for automatic and matching contributions. The Act also provides parity with other federal judges in the vesting schedules for benefits for surviving spouses and dependent children. The Act also makes changes with respect to the rules for retired Tax Court judges who receive compensation for teaching courses as well as rules coordinating the Tax Court judicial retirement with the Federal Employee Retirement system and the retirement and survivors' annuities plans.

This provision is effective on the date of enactment of the Act, except as otherwise stated for specific provisions.

Changes to the Retirement Rules for Tax Court Special Trial Judges

The Act allows Tax Court Special Trial Judges to participate in a judicial retirement program. The Act establishes a retirement plan so that Special Trial Judges can receive retired pay similar to regular judges of the Tax Court. The program provides parity between Special Trial Judges and other federal judges.

This provision allows Tax Court Special Trial Judges to elect to receive retired pay 180 days after the enactment of the Act, including Special Trial Judges who retire on or after the date of enactment and before the 180-day period after the adoption of the Act has passed.

Extension of Telehealth Exemption for HDHPs Through 2025

Health savings accounts (HSAs) are tax-favored IRA-type trust or custodial accounts that can be contributed to by, or on behalf of, eligible individuals to pay for certain medical expenses on a tax-favored basis. Under Code Sec. 223, tax-advantaged contributions generally cannot be made to an HSA unless the account holder is covered by a qualifying high-deductible health plan (HDHP) and does not have disqualifying non-HDHP coverage. To facilitate the use of telehealth during the COVID pandemic, the CARES Act provided that coverage for telehealth and other remote care services would be considered disregarded coverage-i.e., coverage that may be provided before the HDHP minimum deductible is satisfied without causing a loss of HSA eligibility-for plan years beginning on or before December 31, 2021. The Consolidated Appropriations Act, 2022 restored the telehealth exceptions for months beginning after March 31, 2022, and before January 1, 2023.

The Act amends Code Sec. 223(c)(2)(E) to provide that the exception for telehealth and other remote care services applies to plan years beginning after December 31, 2022, and before January 1, 2025 (in addition to the time periods described above). In 2025, legislation was enacted that made the exceptions permanent, effective for plan years beginning after December 31, 2024.

ANALYSIS OF KEY RETIREMENT PROVISIONS IN SECURE 2.0

The following is a breakdown of non-tax provisions in the Setting Every Community Up for Retirement Enhancement 2.0 Act of 2022.

Expanding Automatic Enrollment in Retirement Plans

Defined contribution plans that permit salary deferrals (such as Code Sec. 401(k) and Code Sec. 403(b) arrangements) can be designed to automatically enroll employees at a predetermined contribution percentage unless the employee opts out or elects a different percentage. For plans that include automatic contributions, specific requirements apply for the arrangement to qualify as an automatic contribution arrangement under ERISA Sec. 514(e), eligible automatic contribution arrangement (EACA) under Code Sec. 414(w), or qualified automatic contribution arrangement (QACA) under Code Sec. 401(k)(13).

New law. The Act adds new Code Sec. 414A, which provides that an arrangement generally will not be treated as a Code Sec. 401(k)qualified cash or deferred arrangement or a Code Sec. 403(b)annuity contract unless it is an EACA under Code Sec. 414(w)(3) and satisfies three additional requirements.

First, it must allow permissible withdrawals (as defined in Code Sec. 414(w)(2)) within 90 days after the first elective contribution.

Second, it must provide for automatic contributions of at least 3% and not more than 10% during a participant's first year of participation, unless the participant elects otherwise. And effective on the first day of each plan year after a completed year of participation, the contribution percentage must automatically increase (unless the participant elects otherwise) by 1 percentage point, to at least 10% but not more than 15%, except that for plan years ending before January 1, 2025, the maximum percentage is 10% for any arrangement that is not a safe harbor plan under Code Sec. 401(k)(12) or Code Sec. 401(k)(13).

Third, if the participant makes no investment election, automatically contributed amounts must be invested in accordance with the rules for qualified default investment alternatives under DOL Reg.

Automatic enrollment is not required for: (A) SIMPLE 401(k) plans (under Code Sec. 401(k)(11)); (B) plans established before the Act's enactment date; (C) governmental (Code Sec. 414(d)) or church (Code Sec. 414(e)) plans; (D) any plan maintained by an employer in existence for less than 3 years (including any predecessor employer); and (E) any plan maintained by an employer that employs not more than 10 employees. For multiple employer plans, the automatic enrollment requirements, including the exceptions, are applied separately to each employer.

Effective date. This provision is effective for plan years beginning after December 31, 2024.

Increase in Age for Required Beginning Date for Mandatory Distributions

Employer-sponsored qualified retirement plans (e.g., Code Sec. 401(k), Code Sec. 403(b), or Code Sec. 457(b) plans), traditional IRAs under Code Sec. 408(a), and individual retirement annuities under Code Sec. 408(b)are subject to required minimum distribution rules, which require that benefits be distributed or commence being distributed by the Required Beginning Date (RBD).

Under current law, the RBD for IRAs is April 1 following the calendar year in which the IRA owner attains age 72. For employer-sponsored qualified retirement plans, for non-5% company owners, the RBD is April 1 following the later of the calendar year in which the employee attains age 72 or retires. For an employee who is a 5% owner, the RBD is the same as for IRAs, even if the employee continues to work past age 72.

New law. Under the Act, the current required age component used to determine RBDs is referred to as the "applicable age," and increases from age 72 to: (A) age 73 starting on January 1, 2023 (for individuals who attain age 72 after December 31, 2022, and age 73 before January 1, 2033); and (B) age 75 starting on January 1, 2033 (for individuals who attain age 74 after December 31, 2032).

Effective date. This provision applies to distributions required to be made after December 31, 2022, with respect to individuals who attain age 72 after such date.

Higher Catch-up Limit to Apply at Age 60, 61, 62, and 63

Defined contribution retirement plans under Code Sec. 401(k), Code Sec. 403(b), or Code Sec. 457(b)are permitted, but not required, to allow participants who are age 50 or older to make additional pre-tax elective deferrals, known as "catch-up" contributions. Code Sec. 414(v). Catch-up contributions are elective deferrals that, among other things, are not subject to the annual elective deferral dollar limit ($22,500 for 2023). The annual dollar limit on catch-up contributions is $7,500 for 2023. Deferrals under SIMPLE plans are subject to a reduced annual elective deferral dollar limit ($15,500 for 2023). The annual dollar limit on catch-up contributions to SIMPLE plans is $3,500 for 2023.

New law. Starting in 2025, the Act increases the current catch-up limit to the greater of $10,000 ($5,000 for SIMPLE plans) or 50% more than the regular catch-up amount in 2024 (2025 for SIMPLE plans) for individuals who attain ages 60, 61, 62 and 63. The statutory dollar amounts are indexed for inflation commencing in 2026.

Participants will need to be wary of making catch-up contributions if they have income greater than $145,000. Under Section 603 of the Act, discussed below, catch-up contributions under Code Sec. 401(k), Code Sec. 403(b), or Code Sec. 457(b)plans are subject to mandatory Roth tax treatment (i.e., may not be made on a pre-tax basis) when made by participants whose wages for the preceding calendar year exceed $145,000, as annually indexed for inflation.

It is unclear whether the reference to the catch-up amount in 2025 for SIMPLE plans and 2024 for all other plans is a typo, or intentional.

Effective date. This provision applies to tax years beginning after December 31, 2024.

Penalty-Free Withdrawals for Certain Emergency Expenses

Code Sec. 72(t) imposes a 10% penalty tax on the taxable amount of distributions from tax-preferred retirement accounts, such as 401(k) plans and IRAs, received before age 59½ (early distributions).

The Code provides a number of exceptions to the 10% tax on early distributions, including in the case of distributions described below:

1. Made on or after the employee's death.
2. Attributable to the employee's becoming disabled.
3. Part of a series of substantially equal payments for the life of the employee or the joint lives of the employee and the employee's designated beneficiary.
4. Used to pay medical expenses to the extent a deduction for the expenses is allowable for the tax year of the distribution.
5. From an IRA if used to pay deductible medical insurance of certain unemployed individuals.
6. From an IRA to an individual qualifying as a first-time home buyer, subject to a lifetime cap.
7. From an IRA to pay higher education expenses.
8. Made on account of an IRS levy on the plan.

New law. The Act adds a new exception for certain distributions used for emergency expenses, which are unforeseeable or immediate financial needs relating to personal or family emergency expenses. Only one distribution is permissible per year of up to $1,000, and a taxpayer has the option to repay the distribution within three years. No further emergency distributions are permissible during the three-year repayment period unless repayment occurs.

The Act contains two emergency savings provisions. One of those provisions is described above, and the other provision is provided under SECURE 2.0 Act Sec. 127, which allows employers to offer non-highly compensated employees emergency savings accounts linked to individual account plans. Specifically, Act Sec. 127 permits employers to automatically opt employees into these accounts at no more than 3% of their salary, and the portion of an account attributable to the employee's contribution is capped at $2,500 (or lower as set by the employer). Contributions are after-tax, and withdrawals (in whole or in part) are permitted at least once per calendar month. At separation from service, employees can take their emergency savings account as cash, or roll the account into a Roth defined contribution plan or IRA.

Effective date. The provision is effective for distributions made after December 31, 2023.

Starter 401(k) Plans for Employers with No Retirement Plan

A 401(k) plan is a type of profit-sharing plan that permits employees to contribute a portion of their salary to an individual account. Section 403(b) plans provide tax benefits similar to qualified retirement plans, and can be maintained only by tax-exempt organizations and public schools.

New law. The Act establishes two new plan designs: a new type of section 401(k) plan (called a "starter 401(k) deferral-only arrangement") and a new type of 403(b) plan (called a "safe harbor 403(b) plan").

Starter 401(k) deferral-only plans. A "starter 401(k) deferral-only arrangement" is a cash or deferred arrangement maintained by an eligible employer that meets certain requirements relating to automatic enrollment, contributions, eligibility, and employee notices. It is treated as satisfying the actual deferral percentage (ADP) nondiscrimination test.

Under the starter 401(k) deferral-only arrangement, each employee who is eligible to participate must be treated (unless the employee elects otherwise) as having elected to have the employer make elective contributions in an amount equal to the applicable qualified percentage of compensation. All employees of the employer must be eligible to participate in the arrangement other than those that do not meet the age and service requirements.

The qualified percentage is determined under the terms of the arrangement, but must not be less than 3%, or more than 15%, and must be applied uniformly. The election to make elective deferrals at the qualified percentage ceases to apply to an employee if the employee makes an affirmative election not to contribute or to contribute at a different level.

Under the starter 401(k) deferral-only arrangement, the only contributions that may be permitted are elective contributions of employees eligible to participate. Thus, the employer may not make matching or nonelective contributions to the starter 401(k) deferral-only arrangement.

An employer is eligible to offer a starter 401(k) deferral-only arrangement if neither the employer nor a predecessor employer maintains another qualified plan for the year in which the determination is being made. There is a limited exception for an employer who maintains a plan in which the only participants are employees covered by a collective bargaining agreement. A transition rule also applies for an employer who may fail to meet this requirement due to an acquisition, disposition, or other similar transaction during a specified transition period.

The aggregate amount of any employee's elective contributions for a calendar year may not exceed $6,000, adjusted for cost of living. Catch-up contributions are permitted (for an employee who attains age 50 by the end of the tax year) up to $1,000, indexed for inflation.

Safe harbor deferral-only plan. The Act also establishes a new type of 403(b) plan, called a "safe harbor deferral-only plan." Similar conditions as those described with starter 401(k) deferral-only arrangements apply for purposes of a safe harbor deferral-only plan. That is, a safe harbor deferral-only plan must also satisfy certain requirements that generally parallel the requirements described above.

All employees of the employer must be eligible to participate in a safe harbor deferral-only plan with certain limited exceptions. A safe harbor deferral-only plan is treated as satisfying the universal availability requirement applicable to 403(b) plans.

Effective date. The provision is effective for plan years beginning after December 31, 2023.

Improving Coverage For Part-Time Workers

The SECURE Act of 2019 (Sec. 112, PL 116-94, Div O, 12/20/2019) amended Code Sec. 401(k)(2)(D) to provide that, for plan years beginning in 2021, 401(k) plans must generally permit an employee to make elective deferrals if the employee has worked at least 500 hours per year with the employer for at least three consecutive years and has met the minimum age requirement (age 21) by the end of the three-consecutive-year period (a "long-term part-time employee") Thus, a long-term part-time employee may not be excluded from the plan merely because the employee has not completed a year of service.

Once a long-term part-time employee meets the age and service requirements, the employee must be permitted to begin participation no later than the earlier of (1) the first day of the first plan year beginning after the date on which the employee satisfied the age and service requirements, or (2) six months after the date on which the individual satisfied those requirements.

New law. The Act modifies the rules that apply to long-time part-time employees under a 401(k) plan to reduce the service requirement for those employees from three years to two years. Thus, under the Act, a 401(k) plan generally must permit an employee to make elective deferrals if the employee has worked at least 500 hours per year with the employer for at least two consecutive years and has met the minimum age requirement (age 21) by the end of the two-consecutive-year period.

In addition, the Act clarifies the effective date of the long-term part-time employee rules. Under the Act, 12-month periods beginning before January 1, 2021 are not taken into account in determining a year of service for purposes of the rules applicable to the vesting of employer contributions. Thus, in addition to being disregarded for purposes of determining whether the employee has completed three consecutive years of service (as under present law), 12-month periods beginning before January 1, 2021 are disregarded for vesting purposes.

Finally, the Act clarifies that a 401(k) safe harbor plan that is eligible for an exemption from the top heavy rules does not fail to qualify for the exemption merely because the plan does not provide safe harbor matching contributions to long-term part-time employees.

The Act also extends the long-term part-time coverage rules to 403(b) plans that are subject to ERISA.

Effective date. The reduction in service requirement from three years to two years is effective for plan years beginning after December 31, 2024.

The clarification of the vesting rule and the top-heavy rule is effective as if included in the enactment of Sec. 112 of the SECURE Act of 2019.

Reduction in Excise Tax on Certain Accumulations in Qualified Retirement Plans

Under Code Sec. 4974(a), an excise tax is imposed on a payee under any qualified retirement plan (including IRAs) or eligible deferred compensation plan under Code Sec. 457(b) if the amount distributed during the payee's tax year is less than the required minimum distribution for the tax year. Under current law, the amount of the excise tax is 50% of the amount by which the required minimum distribution (RMD) exceeds the actual amount distributed during the calendar year.

New law. The Act reduces the penalty under Code Sec. 4974(a) for failure to take RMDs from 50% to 25%.

The Act also adds Code Sec. 4974(e) to provide that if the failure to take the RMD is corrected in a timely manner, the penalty is reduced from 25% to 10%. The Act specifies that new Code Sec. 4974(e) provides that if a taxpayer receives, during the correction window, a shortfall of distributions from a plan that resulted in imposition of the excise tax, and submits a return, during the correction window, reflecting such tax, the excise tax on the failure to take the RMD is 10%.

For these purposes, a correction window means the period of time beginning on the date on which the excise tax discussed above is imposed with respect to a shortfall of distributions from a plan, and ending on the earliest of: (A) the date a notice of deficiency with respect to the excise tax is mailed; (B) the date on which the excise tax is assessed; or (C) the last day of the second tax year that begins after the end of the tax year in which the excise tax is imposed.

Effective date. This provision applies to tax years beginning after the date of enhancement of the Act.

Expansion of Employee Plans Compliance Resolution System

The current version of the IRS' Employee Plans Compliance Resolution System (EPCRS) includes three programs: the Self-Correction Program (SCP), the Voluntary Correction Program (VCP), and the Audit Closing Agreement Program (Audit CAP). Only SCP allows for self-correction without IRS approval. SCP is only available for qualified plans and 403(b) plans. EPCRS does not apply to IRAs (other than to certain SIMPLE IRA plans and SEP IRAs).

SCP may be used to correct insignificant operational failures at any time, but significant operational failures and plan document failures eligible for SCP generally must be completed during a correction period that ends on the last day of the third year after the plan year for which the failure occurred. SCP cannot be used for significant operational failures and plan document failures if the plan does not have a favorable determination letter. The ability to use SCP is also lost if correction of a significant operational failure has not been substantially completed before the plan or plan sponsor comes under examination.

New law. The Act expands access to self-correction in multiple ways.

First, it expands self-correction under EPCRS (except as otherwise provided by the Code or regulations) to cover any eligible inadvertent failure to comply with the rules under Code Sec. 401(a), Code Sec. 403(a), Code Sec. 403(b), Code Sec. 408(k)(simplified employee pensions or SEPs), and Code Sec. 408(p) (simple retirement accounts or SIMPLE IRAs), unless the error is identified by the Treasury Secretary before any actions have been taken demonstrating a specific commitment to implement a self-correction, or the self-correction is not completed within a reasonable time after the failure is identified.

Second, it directs the Secretary to allow custodians to use EPCRS to address various IRA failures, including failures to make required minimum distributions and attempted rollovers by nonspouse beneficiaries from inherited IRAs.

Third, "eligible inadvertent failure" is defined expansively to include any failure that occurs despite compliance practices and procedures that satisfy the standards of EPCRS (or similar standards for IRAs). The term does not, however, include failures that are egregious, related to the diversion or misuse of plan assets, or relate to an abusive tax avoidance transaction.

Fourth, participant-loan-related errors may be self-corrected under EPCRS according to the rules in EPCRS Sec. 6.07, which currently makes some corrections available only under the IRS-supervised VCP or Audit CAP programs. Loan failures self-corrected under EPCRS as permitted by the Act will be treated as meeting the requirements of the DOL's Voluntary Fiduciary Correction (VCP) Program, although the Secretary of Labor may impose reporting or other procedural requirements.

The Act's expansion of EPCRS is available only if correction is made in accordance with the general principles for corrections under the Code, including those articulated in EPCRS and regulations or other guidance.

Finally, the Act directs the Secretary to issue guidance on correction methods required to correct eligible inadvertent failures, including general principles of correction where a specific method is not given.

Effective date. This provision is effective as of the date of enactment and the Secretary is required to revise EPCRS for these changes no later than two years from the date of enactment of the Act.

Retroactive First Year Elective Deferrals For Sole Proprietors

If an employer adopts a qualified plan after the close of a tax year, but before the time prescribed by law for filing the employer's tax return for the tax year (including extensions thereof), the employer may elect to treat the plan as having been adopted as of the last day of the tax year. That rule allows employers to establish and fund a qualified plan by the due date for filing the employer's return for the preceding plan year. However, that rule does not override other rules requiring certain plan provisions to be in effect during a plan year, such as the provision for elective deferrals under a 401(k) plan.

A 401(k) plan of a sole proprietor can be funded with employer contributions as of the due date for the business's return, but the elective deferrals must be made as of December 31 of the prior year. However, an individual is deemed to have made a contribution to an IRA for a tax year if it's contributed after the tax year has ended, but is made "on account of" that year, and before the due date for filing the IRA owner's tax return for that year without extensions (generally, April 15).

New law. The provision provides that in the case of an individual who owns the entire interest in an unincorporated trade or business, and who is the only employee of that trade or business, any elective deferral under a 401(k) plan which is made by that individual before the time for filing the individual's return for the tax year (determined without regard to any extensions) ending after or with the end of the plan's first plan year, will be treated as having been made before the end of the plan's first plan year.

Under the provision, 401(k) plans sponsored by sole proprietors can receive employee contributions up to the date of the employer's tax return filing date, but only for the first plan year in which the plan is established.

Effective date. The provision is effective for plan years beginning after the date of enactment.

Eliminating Unnecessary Plan Requirements Related to Unenrolled Participants

Under both the Code and ERISA, employees that are eligible to participate in a defined contribution plan must receive numerous intermittent notices and explanations of their rights and options under the plan, such as an explanation of available investment options. These intermittent notice requirements generally apply even where eligible employees have opted not to participate in the plan.

New law. The Act amends the Code and ERISA to provide that defined contribution plans are exempt from intermittent notification requirements with respect to participants that elect not to participate, and who have already received a summary plan description, and any other notices related to initial eligibility to participate in the plan (unenrolled participants). Intermittent notifications include disclosures, notices and plan documents. However, an unenrolled participant must still receive: (A) an annual reminder notice of their eligibility to participate in the plan, as well as any applicable plan deadlines; and (B) any document they request that they would be entitled to receive under existing law absent this Act provision.

Effective date. This provision applies to plan years beginning after December 31, 2022.

Surviving Spouse Election to be Treated as Employee

Before the enactment of the Act, a surviving spouse that was designated as the beneficiary of an employee who died before the distribution of required minimum distributions (RMDs) began under an employer-provided qualified retirement plan would receive a more favorable distribution period of his or her spouse's interest in the retirement plan if the surviving spouse rolled the amount into an individual retirement account (IRA).

New law. Surviving spouse's election to be treated as employee. Under the Act, in the case of an employee who dies before RMDs have begun under an employer-provided qualified retirement plan, and who has designated a spouse as sole beneficiary, the designated beneficiary surviving spouse may elect to be treated as if the surviving spouse were the employee for purposes of the required minimum distribution rules of Code Sec. 401(a)(9). The date on which the distributions are required to begin will not be earlier than the date on which the employee would have attained the applicable age. If the surviving spouse dies before the distributions begin, the surviving spouse is treated as the employee for purposes of determining the distribution period.

The elections must be made in such time and manner as prescribed by the IRS. The election must include a timely notice to the plan administrator, and once made it may not be revoked except with the consent of the IRS.

Extension of at least as rapidly rule. Under the Act, IRS is directed to amend Reg §1.401(a)(9)-5, Q&A-5(a) (or any successor regulations) to provide that if the surviving spouse is the employee's sole designated beneficiary and the spouse elects the treatment described above, then the applicable distribution period for distribution calendar years after the distribution calendar year including the employee's date of death is determined under the uniform lifetime table.

This provision allows a designated beneficiary who is a spouse to receive a similar distribution period for lifetime distributions under an employer-sponsored retirement plan as is permitted if the surviving spouse rolls the amount into an IRA.

Effective date. The provision is effective for calendar years beginning after December 31, 2023.

Elimination of Additional Tax on Corrective Distributions of Excess Contributions

Generally, a distribution from a qualified retirement plan, a Code Sec. 403(b) plan, or an IRA that is received before a participant attains age 59½ is subject to an additional 10% early withdrawal tax on any amounts included in income.

A 6% excise tax is imposed on the amount of "excess contributions" to an IRA. Code Sec. 4973(a). Any contribution (including net earnings allocable to the contribution) distributed from an IRA on or before the due date of a participant's tax return (including extensions), however, where no IRA deduction was allowed is treated as an amount not contributed, and therefore escapes excise taxation.

Any earnings that are attributable to returned excess contributions from an IRA are not expressly exempt from the additional 10% early withdrawal tax under Code Sec. 72(t).

New law. The Act specifically provides that earnings attributable to excess contributions to an IRA that are returned by the due date for the taxpayer's return for the year (including extensions) are exempt from the 10% early withdrawal tax. The taxpayer must not claim a deduction for the distributed excess contribution.

Effective date. This provision applies to any determination of, or affecting, liability for taxes, interest, or penalties made on or after the date of the enactment of the Act, without regard to whether the act (or failure to act) upon which the determination is based occurred before the date of enactment.

Extended Amendment Period and Anti-Cutback Relief for Certain Plan Amendments

For a retirement plan to be tax-qualified, it must be operated in accordance with the written plan terms. Failure to timely amend plan documents to reflect changes in the law (or changes in plan design and operation) may risk the plan's tax-qualified status. In addition, under the Code Sec. 411(d) and ERISA Sec. 204(g) anti-cutback rules, a plan amendment may not decrease the accrued benefit of a plan participant. When Congress changes the laws relating to plan qualification, it typically establishes a deadline by which amendments reflecting the changes must be adopted, and sometimes provides relief from the anti-cutback rules for retroactive amendments reflecting the changes (so long as the amendments are timely adopted).

New Law. The deadline for plan amendments made pursuant to the Act or any IRS or DOL regulation issued thereunder is the end of the first plan year beginning on or after January 1, 2025 (2027 for governmental and collectively bargained plans). If, in the interim, a plan operates as if a retroactive amendment were already in effect, the retroactive amendment will not be treated as violating the anti-cutback rules (unless otherwise provided in IRS guidance). The Act also conforms certain plan amendment deadlines under the SECURE Act (PL 116-94, 12/20/2019), the CARES Act (PL 116-136, 3/27/2020), and the Taxpayer Certainty and Disaster Tax Relief Act of 2020 (PL 116-260, 12/27/2020) to these new dates. Accordingly, amendments generally must be adopted by the end of the first plan year beginning on or after January 1, 2025 (instead of 2022) or, for certain plans, 2027 (instead of 2024).

Effective date. The provision is effective on the date of enactment of the Act.

Elective Deferrals Generally Limited to Regular Contribution Limit

Defined contribution retirement plans under Code Sec. 401(k), Code Sec. 403(b), or Code Sec. 457(b), may allow eligible participants to elect to make deferral contributions from their compensation on a pre-tax basis. The maximum amount of elective deferrals that can be made by a participant under such plans is subject to an annual dollar limit ($24,500 for 2025). These types of plans are permitted, but not required, to allow participants who are age 50 or older to make additional pre-tax elective deferrals, known as "catch-up" contributions. Code Sec. 414(v). Catch-up contributions are elective deferrals that, among other things, are not subject to the annual elective deferral dollar limit. The annual dollar limit on catch-up contributions is $7,000 for 2025.

These plans may also permit participants to designate a portion of their elective deferrals as "designated Roth contributions." These contributions are made on an after-tax basis and qualified distributions from a designated Roth account generally are excluded from income when made. Roth contributions and their earnings must be kept in separate "Roth accounts." Contributions and distributions of designated Roth contributions must be recorded separately in a Roth account, and a separate record must be maintained of the participant's "investment in the contract." Investment gains and losses (and any other credits or charges) also must be separately allocated to the Roth account on a reasonable and consistent basis.

New law. The Act provides that catch-up contributions under Code Sec. 401(k), Code Sec. 403(b), or Code Sec. 457(b)plans are subject to mandatory Roth tax treatment, except those made by participants whose wages for the preceding calendar year do not exceed $145,000, as annually indexed for inflation. This rule does not apply to simplified employee pensions under Code Sec. 408(k), or to SIMPLE IRAs under Code Sec. 408(p).

Effective date. This provision is effective for tax years beginning after December 31, 2023.

Optional Treatment of Employer Matching or Nonelective Contributions as Roth Contributions

Elective deferrals under Code Sec. 401(k), Code Sec. 403(b), or Code Sec. 457(b) plans are generally made on a pre-tax basis. These plans may also permit participants to designate a portion of their elective deferrals as "designated Roth contributions." These contributions are made on an after-tax basis and qualified distributions from a designated Roth account generally are excluded from income when made.

A defined contribution plan is permitted, but not required, to provide matching contributions. Matching contributions are those contributions that an employer makes on behalf of participants "on account of" their elective deferrals (which, in some plan designs, might include Roth and catch-up contributions). Some plans also match after-tax contributions. Matching contributions are not included in a participant's income until the amount is distributed from the plan.

A defined contribution plan may also provide for nonelective contributions. Nonelective contributions are contributions made by the employer that are not tied to the amount of a participant's elective deferrals (pre-tax or after-tax). Nonelective contributions can be a fixed amount, such as a percentage of pay, or a discretionary amount that the employer determines at the end of the plan year.

Employers currently are not permitted to make matching or nonelective contributions on a Roth basis.

New law. A Code Sec. 401(a) qualified plan, a Code Sec. 403(b) plan, or a governmental Code Sec. 457(b)plan may permit a participant to designate some or all matching contributions and nonelective contributions as designated Roth contributions. This applies only to the extent that a participant is fully vested in these contributions.

Effective date. This provision applies to contributions made after the date of the enactment of the Act.

ILLINOIS MAKES CHANGES AFFECTING VARIOUS TAXES

Income Taxation on Non-Residents Working in Illinois

Starting in 2020, non-residents who spend more than 30 days working in Illinois are deemed to have Illinois earned compensation and will be subject to Illinois income tax based on the total number of days worked in state.

In addition, employers with nonresident employees performing services in Illinois are required to maintain records of days worked by each nonresident employee or obtain a written statement from its nonresident employee with an estimate of the number of days reasonably expected to be performing services in state during the tax year.

SALT Cap Workaround

On August 27, 2021, Governor Pritzker signed into law the Optional Pass-Through Entity Tax, a state and local tax cap ("SALT Cap") workaround for partnerships and S-corporations for tax years 2021-2025. The SALT Cap workaround allows the partnership or S-corporation to elect to pay income tax on its Illinois net income and the partners and shareholders to circumvent the $10,000 cap on SALT itemized deductions on their federal individual income tax returns.

- Applicable Tax Years: This election is effective for tax years ending on or after December 31, 2021 and beginning prior to January 1, 2026. If the federal state and local tax cap is repealed, this election will be revoked.
- Election: This election must be made annually, and once made, is irrevocable for that tax year. Additional guidance from the Illinois Department of Revenue is required to determine the form and date of the election.
- Tax Rate: The tax rate is 4.95% of Illinois net income.
- Eligible Taxpayers: Partnerships and S-corporations are eligible to make this election.
- Credit: The taxpayer is allowed an amount equal to 4.95% of the partner or shareholder's distributive share of the Illinois net income of the electing partnership or S-corporation.
- Nonresident: A nonresident is not required to file an Illinois tax return if the only source of net income is from the entity making the PTE tax election and the credit allowed to the partner equals or exceeds the individual's liability for the tax imposed.

Decoupling from 100% Bonus Depreciation Deduction

Illinois decouples from the 100% federal bonus depreciation for all taxpayers starting with tax years ending on or after December 31, 2021. Under the new depreciation provisions, taxpayers are required to add back the full bonus depreciation and are provided a subtraction for depreciation computed using IRC Sec. 168 as if they elected out of 100% bonus depreciation.

$100,000 NOL Limitation

C-corporations are limited to a $100,000 net operating loss deduction for tax years ending on or after December 31, 2021, and prior to December 31, 2024. The carryforward period for the limitation on utilizing net operating losses will toll in years a taxpayer could have utilized more than $100,000 of net operating loss. However, if a taxpayer has a loss or uses $100,000 or less of loss during the limitation period, no additional years will be added to the carryforward. The net operating loss limitation does not apply to S-corporations and partnerships.

Foreign Income Deduction Addback and IRC Section 1248 Income

The bill contains several modifications related to foreign income. For taxable years ending on or after June 30, 2021, corporate taxpayers are required to add back the deduction allowed under IRC Sec. 250(a)(1)(B)(i), commonly referred to as the GILTI deduction. Additionally, taxpayers are required to add back federal dividend received deductions under IRC Sec. 243(e) and Sec. 245A(a). Note that Illinois disallowed the federal income tax deduction for foreign-derived intangible income (FDI) starting with tax years beginning after December 31, 2018.

While these changes will increase the Illinois starting point of taxable income, the state has not changed the subtraction provided for income included under IRC Sec. 951 through 956. As such, many taxpayers will likely end up in a similar, if not the same, spot as they would have prior to these legislative changes.

Illinois changed the definition of "dividend" for purposes of the Illinois dividends received deduction. No longer included for taxable years ending on or after June 30, 2021, is income treated as dividend under IRC Sec. 1248. Under IRC Sec. 1248, a taxpayer may be required to recharacterize a portion of their gain from the sale of a foreign corporation from capital gain to dividends, to the extent of untaxed earnings and profits in the foreign corporation. However, this change does not apply to dividends for which a deduction is allowed under IRC Sec. 245(a).

Elimination of Franchise Tax Repeal

Senate Bill 2017 eliminates the phase out of the franchise tax while retaining the current $1,000 tax liability offset (i.e., tax is paid on the excess of a $1,000 liability). Pursuant to Senate Bill 689, passed in the spring of 2019, the Illinois franchise tax was set to gradually phase out starting 2020 with complete elimination for taxes due and payable after December 31, 2023.

Extension of Sunset Dates for Credit

The following credits that were set to expire after 2021 have been extended to 2026:

- Angel Investment Credit
- Affordable Housing Donations Credit
- River Edge Redevelopment Zone Credit
- Live Theater Production Credit

Illinois Secure Choice Savings Program Act

Under the Illinois Secure Choice Savings Program Act (820 ILCS 80/), Illinois employers with at least five (5) employees, that have been in business for two or more years, and that do not offer a qualified retirement plan must either begin offering a qualified plan or automatically enroll their employees into the Illinois Secure Choice Savings Program ("Secure Choice"). Secure Choice is a program administered by the Illinois Secure Choice Savings Board for the purpose of providing a retirement savings option to private-sector employees in Illinois who lack access to an employer-sponsored plan. Funded by employee savings (no employer fees or contributions). Employee participation is completely voluntary; employees can opt in or out at any time. Administered by a private-sector financial services firm overseen by a public board chaired by the State Treasurer.

The program began in May 2018 with a small pilot group of employers. The program has gone through its initial waves for larger employers with 25 or more employees and will roll out to additional employers starting in 2022. Employers who do not comply with the Illinois Secure Choice Savings Program Act may be subject to fines and penalties as described in 820 ILCS 80/85. The registration deadlines for employers based on employer size is outlined below:

- An employer employing 500 or more employees: 11/1/2018
- An employer employing 100 to 499 employees: 7/1/2019
- An employer employing 25 to 99 employees: 11/1/2019
- An employer employing 16 to 24 employees: 11/1/2022
- An employer employing 5 to 15 employees: 11/1/2023

Employers who do not meet their required enrollment deadlines or report an exemption from Secure Choice may be subject to financial penalties. For information on registration, reporting an exemption, and related deadlines, visit ilsecurechoice.com.

THINGS TO CONSIDER BEFORE THE END OF 2025

- ☑ Use up expiring loss and credit carryovers.
- ☑ Increase basis in Partnership or S-corporation to make possible 2025 loss deduction.
- ☑ Buy equipment by December 31st to get depreciation deductions in 2025.
- ☑ Apply bunching strategy to medical expenses to increase deductible amounts.
- ☑ Increase withholding to eliminate estimated tax penalty.
- ☑ Set up self-employed retirement plan.
- ☑ Make gifts taking advantage of $19,000 gift tax exclusion.
- ☑ Avoid personal-holding company tax by making dividend payments.
- ☑ Minimize income tax on social security benefits.
- ☑ Dispose of passive activity in order to free-up suspended losses.
- ☑ Make IRA contributions as early as possible.
- ☑ Delay late year mutual fund investments until after the fund's dividend date.
- ☑ Maximize your contribution to a tax-deferred retirement plan.

2025 TAX RATE SCHEDULE

	Taxable Income	Tax
Married Individuals Filing Joint Returns and Surviving Spouses	Not over $23,850	10% of taxable income
	Over $23,850 but not over $96,950	$2,385 plus 12% of the excess over $23,850
	Over $96,950 but not over $206,700	$11,159 plus 22% of the excess over $96,950
	Over $206,700 but not over $394,600	$35,302 plus 24% of the excess over $206,700
	Over $394,600 but not over $501,050	$80,398 plus 32% of the excess over $394,600
	Over $501,050 but not over $751,600	$114,462 plus 35% of the excess over $501,050
	Over $751,600	$202,155 plus 37% of the excess over $751,600
Heads of Household	Not over $17,000	10% of taxable income
	Over $17,000 but not over $64,850	$1,700 plus 12% of the excess over $17,000
	Over $64,850 but not over $103,350	$7,442 plus 22% of the excess over $64,850
	Over $103,350 but not over $197,300	$15,912 plus 24% of the excess over $103,350
	Over $197,300 but not over $250,500	$38,460 plus 32% of the excess over $197,300
	Over $250,500 but not over $626,350	$55,489 plus 35% of the excess over $250,500
	Over $626,350	$187,032 plus 37% of the excess over $626,350
Unmarried Individuals (Other Than Surviving Spouses and Heads of Household)	Not over $11,925	10% of taxable income
	Over $11,925 but not over $48,475	$1,193 plus 12% of the excess over $11,925
	Over $48,475 but not over $103,350	$5,579 plus 22% of the excess over $48,475
	Over $103,350 but not over $197,300	$17,651 plus 24% of the excess over $103,350
	Over $197,300 but not over $250,525	$40,199 plus 32% of the excess over $197,300
	Over $250,525 but not over $626,350	$57,231 plus 35% of the excess over $250,525
	Over $626,350	$188,770 plus 37% of the excess over $626,350
Married Individuals Filing Separate Returns	Not over $11,925	10% of taxable income
	Over $11,925 but not over $48,475	$1,193 plus 12% of the excess over $11,925
	Over $48,475 but not over $103,350	$5,579 plus 22% of the excess over $48,475
	Over $103,350 but not over $197,300	$17,651 plus 24% of the excess over $103,350
	Over $197,300 but not over $250,525	$40,199 plus 32% of the excess over $197,300
	Over $250,525 but not over $375,800	$57,231 plus 35% of the excess over $250,525
	Over $375,800	$101,077 plus 37% of the excess over $375,800

2026 TAX RATE SCHEDULE

	Taxable Income	Tax
Married Individuals Filing Joint Returns and Surviving Spouses	Not over $24,800	10% of taxable income
	Over $24,800 but not over $100,800	$2,480 plus 12% of the excess over $24,800
	Over $100,800 but not over $211,400	$11,600 plus 22% of the excess over $100,800
	Over $211,400 but not over $403,550	$35,932 plus 24% of the excess over $211,400
	Over $403,550 but not over $512,450	$82,048 plus 32% of the excess over $403,550
	Over $512,450 but not over $768,700	$116,896 plus 35% of the excess over $512,450
	Over $768,700	$206,584 plus 37% of the excess over $768,700
Heads of Household	Not over $17,700	10% of taxable income
	Over $17,700 but not over $67,450	$1,770 plus 12% of the excess over $17,700
	Over $67,450 but not over $105,700	$7,740 plus 22% of the excess over $67,450
	Over $105,700 but not over $201,750	$16,155 plus 24% of the excess over $105,700
	Over $201,750 but not over $256,200	$39,207 plus 32% of the excess over $201,750
	Over $256,200 but not over $640,600	$56,631 plus 35% of the excess over $256,200
	Over $640,600	$191,171 plus 37% of the excess over $640,600
Unmarried Individuals (Other Than Surviving Spouses and Heads of Household)	Not over $12,400	10% of taxable income
	Over $12,400 but not over $50,400	$1,240 plus 12% of the excess over $12,400
	Over $50,400 but not over $105,700	$5,800 plus 22% of the excess over $50,400
	Over $105,700 but not over $201,775	$17,966 plus 24% of the excess over $105,700
	Over $201,775 but not over $256,225	$41,024 plus 32% of the excess over $201,775
	Over $256,225 but not over $640,600	$58,448 plus 35% of the excess over $256,225
	Over $640,600	$192,980 plus 37% of the excess over $640,600
Married Individuals Filing Separate Returns	Not over $12,400	10% of taxable income
	Over $12,400 but not over $50,400	$1,240 plus 12% of the excess over $12,400
	Over $50,400 but not over $105,700	$5,800 plus 22% of the excess over $50,400
	Over $105,700 but not over $201,775	$17,966 plus 24% of the excess over $105,700
	Over $201,775 but not over $256,225	$41,024 plus 32% of the excess over $201,775
	Over $256,225 but not over $384,350	$58,448 plus 35% of the excess over $256,225
	Over $384,350	$103,292 plus 37% of the excess over $384,350